



**OAK RIDGE PLANNING & ZONING BOARD MEETING
JANUARY 25, 2024 - 7:00 P.M.
OAK RIDGE TOWN HALL**

MINUTES

Board Members Present

Jason Streck, Chair
Nancy Stoudemire, Vice Chair
Patti Paslaru
Larry Stafford
Ron Simpson
Craig Rosenfeld, Alternate (not sitting)

Staff Present

Sean Taylor, Planning Director
Sandra Smith, Asst. Mgr./Town Clerk

Board Members Absent

Patrick Fiorentino
Megan Dyson, Alternate
Tara Tillman, Alternate

1. CALL TO ORDER

The meeting was called to order by Chair Jason Streck at 7:01 p.m.

2. APPROVE AGENDA

Patti Paslaru moved to approve the agenda, and Ron Simpson seconded. The motion was passed unanimously (5-0).

3. APPROVE MINUTES

Simpson moved to approve the minutes of the December 14, 2023, regular meeting, and Paslaru seconded. The motion was passed unanimously (5-0).

4. NEW BUSINESS

Election of Chair and Vice Chair

Chair

Paslaru nominated Streck for chair. With no other nominations, the vote was unanimous (5-0).

Vice Chair

Streck nominated Nancy Stoudemire for vice chair. With no other nominations, the vote was unanimous (5-0).

5. PUBLIC HEARING

- A. **REZONING CASE #RZ-24-01:** Owners Billy Kanoy and Denise Kanoy request a rezoning of their properties from AG (Agricultural) and RS-30 (Residential) to CZ-RS-40 (Conditional Zoning – Residential). The properties are at 2835 and 2843 Oak Ridge Road located on the north side of Oak Ridge Road in Oak Ridge Township. They are approximately 52.09 acres in the NPDES Watershed and are Guilford County Tax Parcels 162998 and 162999.

Planning Director Sean Taylor read the property description into the records, and presented the staff report, which is hereby incorporated by reference and made a part of the record.

Taylor indicated that the 52-acre property would be limited to a maximum of 28 lots.

Streck opened the public hearing.

Proponents:

Bill Greco of Land Solutions, P.O. Box 347 in Oak Ridge, spoke on behalf of the applicants and noted that he would be a part of the local development team for the property if the rezoning were granted. He explained that the RS-40 designation included many uses outside of single-family dwellings such as police stations and family care centers. In requesting a Conditional RS-40 zoning, Greco explained that use would be limited to just single-family residences with customary structures. He added a second development condition that would limit development to a maximum of 28 lots of varying sizes ranging from one to two acres. He said that he believed that requesting 28 lots was reasonable given the topographical issues and easements present on the property. He reported that he had held an open house for all people notified by the Town of the project during which he displayed a conceptual sketch of the development where he highlighted Lockland Drive, the sole entrance into the adjacent development, Stonehenge. He stated that the Stonehenge neighborhood had been platted around 1994 and contained 77 to 79 lots serviced by one entrance. Greco pointed to a stub road which he planned to connect to Lockland Drive and extend out to Hwy 150. He said that he believed the application he represented was complete and supported by the Town's Land Use Plan, Thoroughfare Plan, and Unified Development Ordinance.

Opponents:

Debra Cimbala, 6698 Currieton Drive, stated that she was the secretary of Stonehenge Homeowners Association and that she was not opposed to the application but had concerns which she would like reflected on record. The first of these concerns had to do with the current flow of water which was deposited and collected at the lower end of Currieton Drive. She encouraged the developer to address and mitigate the drainage issue. Secondly, she expressed concern over the

potential for traffic to increase along Currieton Drive to Lockland Drive and asked that NC Department of Transportation be petitioned to decrease the speed limit there. Thirdly, Cimbala asked that Lockland Drive not be used as a construction entrance and that signage be installed at the entrance to indicate the restriction. She asked that the developer consider a construction entrance off Hwy 150 instead.

Forest Holder, 2811 Lockland Drive, pointed out that water drained to his house which sat at the end of Lockland Drive. He noted that the water currently flowed around his house but expressed concern that future development would create conditions whereby the water would flow directly to his house. He reinforced the need to decrease the speed limit in the neighborhood due to children playing and people walking in the neighborhood.

Rebuttal – Proponents:

Greco noted that the development team was aware of the drainage patterns in the development. He pointed out that a 60-foot drainage easement on Holder's property expanded to a 100-foot drainage easement off his property to manage water flow. He explained that numerous levels of review, inspection, and authorization were in place that would oversee the construction process and that the development team was committed to not making matters worse for homeowners in the area. Greco expressed support of a decrease in speed limit should an appeal be made to NCDOT to review the speed limit. He maintained that while horizontal development was underway, heavy construction traffic would be closely monitored and controlled through the required 100-foot temporary construction entrance by the development team. However, he pointed out that once individual lots began construction, the development team would not be in control of the traffic resulting from these individual construction projects.

Rebuttal – Opponents:

None.

Streck closed the public hearing.

Board Comments:

Craig Rosenfeld asked what the speed limit was in the neighborhood. Town Clerk/Assistant Town Manager Sandra Smith replied that the speed limit was 35 miles per hour (mph) unless otherwise posted. Eric Langohr, 6692 Currieton Drive, answered that the sign at the entrance to the neighborhood signified the speed to be 35 mph and expressed his interest in reducing that speed limit. Streck asked Taylor to explain the appeal process involved in decreasing speed limits. Taylor redirected the inquiry to Smith who responded that residents could contact the NC Department of Transportation (NCDOT) and state their desire to lower the speed limit. NCDOT would then review the appeal and if they agreed with the appeal, they would ask the Town to pass a resolution in favor of lowering the speed limit. Smith noted that Town Council has historically been amenable to such requests from neighborhoods.

Streck asked whether NCDOT or the developer would be responsible for signage at construction entrances. Taylor replied that the developer would manage the construction entrance signage. Streck asked Greco if the development team would be open to managing the signage during the early build-out process. Greco responded that he would be required to apply for approval from the Town to install temporary signage at the entrance to Stonehenge. He noted that he would work with the residents in designating proper entrances and he believed the Town would approve the endeavor. Paslaru added her belief in Greco's commitment to properly managing the interests and concerns of residents. She pointed to his involvement in most development projects in Oak Ridge, citing his understanding of the Town and its processes. She noted that the stub street was intentionally planned for future connectivity.

Paslaru made a motion to approve the rezoning request from AG (Agricultural) to CZ (Conditional Zoning) noting that the application was in compliance with the Comprehensive Plan. Nancy Stoudemire seconded the motion, and it was passed unanimously (5-0).

B. PUBLIC TRAIL EASEMENT CLOSING

Planning & Zoning Director Sean Taylor introduced the request made by Green Horse LLC to close a public trail easement along the western boundary of the Ashford subdivision. Taylor explained that the eight-foot-wide easement was voluntarily granted by the property owner, Joe Brady, owner of Green Horse LLC, to the Town of Oak Ridge. Taylor read policy 2.2.2 of the Oak Ridge Land Use Plan which is hereby incorporated by reference and made a part of the record. He pointed out that the policy permitted the incorporation of a trail in a neighborhood designed to be a link between neighborhoods whether or not vehicular connections were available.

Streck opened the public hearing.

Proponents:

Joe Brady, 205 Kensington in Greensboro, owner of Brady Development and Green Horse LLC which owns the Ashford subdivision, presented the plat of the development, and pointed to the location of the proposed trail and the area being requested for removal. Brady spoke about his focus on adding positive tax value to the Town through the designs of the neighborhoods he had developed, Wolf Ridge, and Ashford. He noted that the proposed trail had been marked out by a surveyor at the Town's request and that he requested its removal due to the trail's location and to the difficulty of the topography at that location. Brady cited an issue with putting a public trail easement on private land as opposed to land that was donated to the Town or land that was in an offsite septic area. He added that the location of the proposed trail was in a tree preservation area and its installation would remove a naturally occurring buffer of large trees between neighborhoods. He explained that the subdivision was zoned RS-40 and thereby required septic systems and wells. He argued that the lots would not have enough space to accommodate the trail. He revealed that he had concerns with the pedestrian traffic which the trail would invite into backyards as fences are prohibited from obstructing trail paths. He

pointed out that sales of lots had been lost due to the presence of the easement on the property and offered concerns of safety as the easement ends in the neighborhood offering only an exit through Brookbank and Bunch Roads. He noted that the Town had no ordinance managing liability due to loss or injury while on the trail.

Margaret Chase, 111 Wilson Street in Greensboro, introduced herself as an attorney with Ruby Chase Taliercio representing Bear Creek Homeowners Association and some of its individual members. Chase explained that the Bear Creek subdivision was adjacent to the Ashford subdivision and the trail easement. She pointed out that the Town did not follow its customary process for proposing and adopting a public trail easement. She noted that contrary to the Town's Ordinance Section 36-33, the Parks & Recreation Advisory Board did not solicit public comments nor hold public meetings or distribute a questionnaire or survey to discuss the proposed location of the trail prior to its adoption. She cited an email from Councilwoman Ann Schneider which stated that the trail was suggested by a member of the Planning & Zoning Board, finalized by staff, and adopted with the consent of the developer. Chase pointed out that the trail's location negatively impacted her clients' safety, privacy, liability, and home values. She pointed out that the eight-foot width of the trail would not be wide enough to allow a buffer between the trail and the private property and that users of the trail would likely venture beyond the allowed footprint of the trail onto private property risking damage to the property. She stated that connectivity could be achieved with an alternative location for the public trail easement and urged Council to listen to the commentary and suggestions offered by the homeowners. Chase distributed a visual aid outlining the location of the public trail easement.

Lindsey Clark, 6816 Koala Drive, noted that she has been a resident of Bear Creek for over seven years. She pointed out that guidelines did not exist in the Town's ordinances for trails in RS-40 zoned properties and questioned whether or not the Town was meeting the NCDOT guidelines. She called the eight-foot-wide public trail path unprecedented and unacceptable. She cited policy 2.2.2 of the Town's Land Use Plan and noted that the design of the easement was not included in the plat that was approved in January 2022. She pointed out the Town's non-compliance with policy 4.2.2 where public involvement was not sought by the Town. She further cited the trail's conflict with policy 4.2.3 in its pedestrian plan noting that future plans to connect with the Piedmont Greenway through shoulders and/or sidewalks would allow access points along NC Hwy 68 and NC Hwy 150 to Bunch Road and Bandera Farms. Clark concluded by revealing that policy 5.3.1 of the Town's Land Use Plan supported paved shoulders along NC Hwy 68 and NC Hwy 150. All policies cited by Clark are hereby incorporated by reference and made a part of the record.

Kevin Brekka, 6819 Koala Drive, introduced himself as a resident of Bear Creek and the president of its Homeowners Association. Brekka asked that individuals present at the meeting stand to visually indicate to Council the breadth of support that was present to advocate removal of the public trail easement. He clarified that contention was not against the MST, but that the issue concerned the safety and privacy of the 23 homes at Bear Creek, all of whose homeowners had previously signed a petition to Town Council to remove the trail. He pointed out that the

statewide trail would essentially be inviting people into the center of their neighborhood and thereby compromise residents' safety, privacy and increase risks for liability should damage or injury occur.

Lucas Thomas, 7799 Panda Court, stated that he had been a resident of Bear Creek for three years. He noted that many children resided in the neighborhood, specifically that there were forty children under the age of 18 and that 30 of them were under the age of 16. He expressed concern for the increased pedestrian and vehicular traffic that the trail would invite into the neighborhood, citing risk for opportunistic crime, and exposure of children to unknown individuals. Thomas read Proverbs 10 and 19, which are hereby incorporated by reference and made a part of the record, to underscore the need for transparency and honesty in communication between parties involved.

Jonathan Deline, 7796 Polar Drive, stated that his home was adjacent to the trail. He expressed that the trail's presence would be disruptive to his family, pointing out that he had an adult child with special needs living in his home and that he had a swimming pool visible from the trail. He wanted to know the parameters of liability as an owner of property that abutted the trail.

Opponents:

Stephanie Ferrell, 5839 Billet Road, spoke on behalf of the Town's MST Committee and requested the public trail easement stay open for its importance in providing connectivity in the over 1200-mile path crossing the state from Clingman's Dome in the west to Jockeys Ridge in the east. Ferrell cited Policy 1.3.2 of the Town's Strategic Plan noting the Town's support of development of the MST trail through the Town and connecting neighborhoods to Oak Ridge Town Park, Heritage Farm Park, and Bandera Farms. She evidenced approximately six miles of trails built in the Town since 2018 using 2,067 hours of volunteer manpower to do so, testifying that trail building was a community initiative and effort. Ferrell emphasized the physical, mental, and social benefits of trails stressing the importance of making nature accessible to children and supporting the conservation and preservation of open space. She reinforced the appeal of accessibility to trails on home values citing studies by the National Association of Realtors which state that the value of a home located by a trail is enhanced by three to five percent. Ferrell referenced a letter written by Kevin Rust, attorney to Green Horse, LLC dated on December 19, 2023, and responded to each point of contention issued in the letter as follows:

- The trail will be located in a tree preservation area: Ferrell responded that the MST Committee were stewards of the environment and sought to preserve trees and would reroute trails around existing trees.
- The topography of the trail location is difficult: Ferrell responded that topographically challenging areas are typically granted as easements by developers because the land is undevelopable.
- A creek runs through the area of the trail: Ferrell pointed to the numerous bridges built on trails to cross over creeks, many of which were constructed as part of Eagle Scout projects.

- The trail will terminate in the Ashford subdivision causing complications: Ferrell pointed out that the trail would eventually connect to Bandera Farms.
- Bear Creek and Ashford subdivisions will not support the trail's location in their neighborhoods: Ferrell stressed the committee's sensitivity to the residents' issues and committed to working through the issues with the residents.
- Green Horse LLC has been unable to sell the lots adjacent to the trail because of the trail's location: Ferrell pointed to the topography of the lots and offered this as an explanation for the challenge to develop these lots.
- Increased vehicle and pedestrian traffic will disrupt the neighborhoods and there will be a consequent risk for liability to private property owners: Ferrell stated that there was no evidence to support increased crime statistics in areas around trails and explained that illegal parking would be closely monitored, and that no trailheads or parking lots were currently planned for the public trail. She added that easement liabilities would be mitigated by the North Carolina Recreational Use Statute which would shield private property owners from liability provided that no charges were brought on trail users.

Mike Kimel, 5601 Tanyard Court, expressed his opposition to efforts to remove the public trail easement. Kimel spoke of the Town's support for developing MST trails through the town, stating that trails would connect the community and bring visitors to the Town. He recalled the Town's alliance with the Town of Summerfield and the Piedmont Land Conservancy to purchase Bandera Farms which would act as a critical link to the Piedmont Greenway and stressed that the public trail easement would provide a necessary connection. As a retired military officer with twenty-three years in law enforcement and eighteen years as the state's criminal magistrate and, as an avid hiker and scout leader Kimel offered reassurance that the presence of trails enhanced the quality of life, and apprehensions of fear of harm or lack of security were misappropriated. In his study of crime statistics, Kimel found no evidence of an increase in crimes in areas surrounding trails. He stressed the committee's willingness to work with neighbors to resolve issues and offered an open invitation to them to join the committee's monthly meetings.

Joel Deaton, 6101 Gwynedd Road, introduced himself as the Western Guilford task force leader for the MST. Deaton stated that he had worked with the Town since 2016 and stressed the viability of the relationship. He described the trails which he had developed in the Cascades Preserves with the Town and the efforts they had taken to protect and preserve the trees and vegetation in the Preserve. He described the similarity of the Cascade Preserves trails which ran behind the River Gate development to the public trail running by the Bear Creek and Ashford developments. He said that he supported the MST connectivity to Summerfield, Bandera Farms, and beyond.

Rebuttals in favor:

Lindsey Clark, 6816 Koal Drive, stressed that the MST committee had no ordinance to bear on the hearing, and that the issue was instead under the purview of the

Parks & Recreation Advisory Board. She stated that the Town's Strategic Plan had the goal but not the means to promote MST trails through the Town and offered other means to build connections such as gravel paths by roads. She disagreed with the similarity drawn between the trails by River Gate and Bear Creek/Ashford noting that views of the trails behind River Gate are obstructed by a ravine and residents would thereby not realize if they were being "chased" by trail users. Clark pointed out that the preliminary plat of the subdivision did not contain the public trail easement as required by policy 2.2.2 of the Town's Land Use Plan, and that the easement was added after the plat's approval. She referred to Town Manager's Bill Bruce's statement that easement designs were not required before a plat was approved as being false. She referenced the study by the National Realtors Association alluded to previously and shared that negative impacts of trails by homes discussed in that same article were not revealed. Clark then responded to the allegations of there being no crime in areas surrounding trails and cited several cases of criminal activity along walking trails in other states and pointed out that crime had not impacted the trails in Oak Ridge yet. Clark spoke about having bike paths along Bunch Road to link to Bandera Farms. She pointed out that only MST supporters spoke in opposition to closing the public trail easement which revealed their bias to support trails over the issues being spotlighted by the residents favoring the trail's closure.

Rebuttals in opposition:

Stephanie Ferrell, 5839 Billet Road, recounted a personal experience of having an apartment complex built behind her property and the presiding fears of the unknown impact of the complex which were experienced by property owners. She stressed her commitment to working closely with neighbors and residents of the developments to resolve the issues surrounding the public trail easement.

Streck closed the public hearing.

Board Comments:

Craig Rosenfeld asked if the public trail would be used as a walking trail only and Taylor responded that it would be used as a walking trail. Developer Joe Brady interjected that the full use of the trail was yet unknown, but Streck interrupted to instruct that the public comment portion of the hearing had been closed and that the Board would request public comment only when necessary.

Larry Stafford commented that the trail abutted three lots which appeared to be undesirable and suggested getting rid of the easement.

Ron Simpson asked Taylor how many subdivisions in Oak Ridge had approved trail easements. Taylor responded that eight to ten subdivisions had easements approved in their development, to which Simpson pointed out the standard practice of trail easements in developments and that Bear Creek/Ashford was not being singled out. Simpson asked if there were any reasons for exempting the developments from considering a trail easement placement and Taylor responded that no unsuitable conditions existed for a walking or hiking trail in the location.

Simpson followed up by asking if the easement request was coerced or introduced spontaneously to the developer and Taylor answered no.

Patti Paslaru commented that the request for voluntary granting of easements by the Board or the Town were routine and a part of the Town's Land Use Plan. She noted discomfort with the allegation of coercion in obtaining the easement.

Nancy Stoudemire asked Taylor to provide a description of an easement. Taylor specified that an easement as it pertained to the discussion was a granting of an eight-foot-wide path designated for public ingress egress trail usage. Stoudemire said that she did not anticipate a large need for parking as the prospect for trail usage seemed inflated. She disclosed that she had walked the trail and noticed drainpipes reaching into the easement from private properties and encountered only two large trees in the easement's path, making the concern for tree preservation irrelevant as the trail would be routed around these trees. She stressed the importance of connectivity that the trails would afford the Town and the MST. She expressed concern for setting a troubling precedent in reversing a donated easement. Stoudemire asked when Bear Creek was established, and Clark answered that it was established in 2007.

Jason Streck did not recall an instance when a donated trail easement had been rescinded, and Taylor verified this statement. Streck asked if public roads had public access to which Taylor answered affirmatively. Streck asked if public easements had public access, and Taylor answered affirmatively. Streck motioned to the trail easement's location behind a creek and invited developer Joe Brady to respond.

Joe Brady, 205 Kensington in Greensboro, affirmed that there were several creeks and drainage easements throughout the area and a 30-foot drop into a ravine. He noted that there were large trees that would require removal as well as septic repair areas in lots eight and nine that would need to be in the easement area. He said he thought that weaving the trail around large trees would force encroachment on private property. He reiterated the absence of any Town ordinance that provided guidelines for trail management in RS-40 zoned property. He stressed that he did not want to shut down the MST, but that he and residents had pause to reconsider the easement's location and realized belatedly the hardships that it would create. Streck asked Brady if he agreed to donate the easement, and Brady answered that he was told that he would not receive a signature on his plat until he agreed to donate the easement. Streck asked Brady who had asked for his agreement and Brady responded that Bill Bruce and Sean Taylor had indicated to him that a trail had to be put into the plat before they would approve it with their signature. Taylor interjected that the statement made by Brady was incorrect.

Streck asked Ferrell if the MST Committee had current plans to work on the trail in question. Ferrell answered that there were no plans to work on the trail presently as the committee was working on the trail easement granted to them behind Pemberly Estate. Streck asked Ferrell if she expected this trail to invite high traffic use, and Ferrell responded no and that none of the trails drew high traffic. Streck asked if the easement would connect the neighborhood to the MST, and Ferrell answered that it was a part of the MST. Streck asked where the trail would lead, and Ferrell invited

committee member Randy Schmitz of 8003 Eastridge Road to respond. Schmitz noted that the easement would lead into the existing trails at Pemberly and Carriage Cove and into Brookbank Road. He stated that the goal was to connect Carriage Cove to the Town of Summerfield at Bandera Farms, though trail accesses in Summerfield were currently in a holding pattern. He commented that the trail through Ashford/Bear Creek would be a temporary connection to draw trail usage off Brookbank Road until the trail to Summerfield could be established.

Paslaru made a motion to deny the request to remove the public trail easement in the Ashford subdivision and Stoudemire seconded the motion.

Simpson commented on the Board's efforts to treat all applicants in a balanced manner and that as an advisory board, the members worked to be consistent in making recommendations to Town Council. He pointed out that two members on the Board were familiar with the work of the MST and familiar with the Town's preference for developing trail connections.

The motion passed unanimously (5-0).

Streck reemphasized that the decision from the Board was a recommendation for Town Council to consider. He noted that the issue would become an agenda item at the next Council meeting on February 1, 2024, which any interested party could attend. He stressed that the role of the Planning & Zoning Board was to interpret rules and guidelines on development and to deliver a recommendation in a fair and complete manner.

6. PUBLIC COMMENTS

Lindsey Clark, 6816 Koala Drive, cited a section of the Town ordinance which described the process of voting on the Board of Adjustment and outlined the constitutional rights of individuals to due process and unbiased determinations on their requests. Clark indicated that the individuals who spoke in favor of closing the public easement were not offered due process evidenced by the lack of questions posed and the lack of consideration of the policies cited to the Board in their comments. She stated that the Board was biased in favor of the MST and had individuals who had originally requested the easement on the board. She noted that she would appear before Town Council at its next meeting to present her information.

Streck asked Town Clerk Sandra Smith for an explanation of the process for appealing decisions. Smith explained that the recommendation of the Planning & Zoning Board would be placed before Town Council for consideration at its next meeting and a Public Hearing with Town Council would be held before a decision is made. If individuals chose to appeal the decision rendered by Council, the appeal would then be brought before the Superior Court for determination.

Jonathan Deline, 7796 Polar Drive, stated that the issue of contention was not with trails or the MST but instead with the process of locating and approving the trail

without public discussion. He asked that a better solution be sought to relocate the trail elsewhere.

Kevin Brekka, 6819 Koala Drive, noted that security within the neighborhood could not be guaranteed once the trail was in place and being utilized. He pointed out that the trail was proposed to run through the center of Bear Creek rather than around it and he believed this to create an unacceptable safety risk to the homeowners and their children in the neighborhood. He stated on record that the Board's decision would be allowing the trail to enter through the Bear Creek neighborhood and asked for reconsideration or abstention from voting on the recommendation.

Stoudemire pointed out that the trail easement would not actually run through Bear Creek, an established development since 2007. She clarified that the easement would be located by Ashford which is a new development.

Andrew Zacher, 7796 Panda Court, pointed out that the easement would run between Bear Creek and Ashford, essentially giving the semblance of running through the center of the community. He expressed concern for the probability of infringement of privacy and safety.

7. ADJOURNMENT

Patti Paslaru moved to adjourn the meeting at 8:54 p.m., and Ron Simpson seconded. The motion was passed unanimously (5-0).

Respectfully Submitted:

Sandra B. Smith, NCCMC, CMC
Asst. Town Manager/Town Clerk

Jason Streck
Chair