



**OAK RIDGE PLANNING & ZONING BOARD MEETING  
FEBRUARY 27, 2014 - 7:00 P.M.  
OAK RIDGE TOWN HALL**

**MINUTES**

**Members Present**

Doug Nodine, Chair  
Nancy Stoudemire  
Carl Leybourne  
Bobbi Baker  
Larry Stafford  
Tammy Gardner  
Brian Eichlin, Alternate (Sitting)

**Staff Present**

Sandra Smith, Town Clerk  
Bill Bruce, Town Planner

**Members Absent**

Ron Simpson, Interim Vice Chair  
Patti Paslaru, Alternate

**1. CALL TO ORDER**

The meeting was called to order by Doug Nodine at 6:58 p.m. Board members seated were Nodine, Nancy Stoudemire, Carl Leybourne, Larry Stafford, Bobbi Baker and Tammy Gardner; Ron Simpson was not yet present, but was expected to arrive.

**2. APPROVE AGENDA**

**Bobbi Baker** made a **motion** to approve the meeting agenda. **Carl Leybourne** seconded the motion, and it was passed unanimously (6-0).

**3. APPROVE MINUTES OF THE DECEMBER 12, 2013, MEETING**

**Larry Stafford** made a **motion** to approve the minutes of the December 12, 2013, meeting. **Bobbi Baker** seconded the motion, and it was passed unanimously (6-0).

**4. NEW BUSINESS**

**A. Election of officers**

Nodine opened the floor for nominations for chairman. **Bobbi Baker** nominated Doug Nodine to serve as chair, and **Nancy Stoudemire** seconded. There were no other nominations, and the vote in favor was unanimous (6-0).

Nodine opened the floor for nominations for vice chairman. **Carl Leybourne** nominated Ron Simpson to serve as vice chair, and **Larry Stafford** seconded. There were no other nominations, and the vote in favor was unanimous (6-0).

Since Simpson had not arrived, Brian Eichlin was seated on the Board.

**B. Subdivision Case #13-12-ORPL-05775. Connell, Robert and Frances.** The property is located at the terminus of Gumwood Road, and the terminus of Crutchfield Farm Road, in Oak Ridge Township. It is Guilford County Tax Parcel 0162659. This subdivision plat consists of two lots for a total of 16.88 acres. Zoned AG. Greensboro (GS-III) Watershed. Owner/Applicant: Robert D. Connell and Frances O. Connell. Designer: CPT Engineering.

Town Planner Bill Bruce presented the case and explained that the Oak Ridge Thoroughfare Plan shows an extension of Crutchfield Farm Road over the creek to join it with Gumwood Road; the applicant had requested a waiver on the grounds that it would be a physical hardship to create the road connection due to the creek, which would require a bridge to cross, and extensive floodplain area on his property.

Bruce said the other factor to consider in allowing the subdivision of the property is how the drainage and floodplain are shown on the map, which the Board could deal with in several ways:

1. As stated in the staff report, the Board could require the entirety of the 100-year flood zone be dedicated to Oak Ridge and the public for drainageway and open space. Bruce said when a floodplain is located in a major subdivision, the Town typically requires the property owner to dedicate the floodplain to the Town. The same could be required in this case.
2. The second option would be to include the entire 100-year flood zone in a drainage easement with no public access. The Future Land Use Plan shows most floodplains as greenways. The development ordinance says the Board can consider things like the type of development being proposed, how the issue has been dealt with on neighboring properties, and how the Open Space Plan shows the property. Bruce said for a two-lot subdivision, there is a lot of floodplain to dedicate in this instance, but the Land Use Plan shows the property having a greenway on it. Open space has been dedicated on property to the west at Estates at Oak Ridge Lake and also on nearby Bison Drive, so open space has previously been dedicated along Beaver Creek.
3. The Board could come up with a hybrid of the options listed above to include a public access easement on a portion of the corridor, with the remainder of the flood zone included in a drainage easement.

Bruce said that at the very least the floodplain needs to be shown as a drainage easement and, in his opinion, what is being offered by the applicant does not meet the ordinance requirements.

Board members then asked Bruce several questions about the proposed plan, including:

- Would Lot 2 be large enough to build on if floodplain dedication is required? Bruce said typically a property cannot have access from the end of a dead-end road without a place to turn around. In this case, there is a T-shaped turnaround at the end of Crutchfield Farm Road, and NCDOT said it would meet their subdivision standards. He said the other issue would be whether the property perks, but there is still about 1.5 acres that is not in the floodplain.
- Would Lot 2 have to be rezoned in order for someone to build a house on it? Bruce said he didn't think so, because a two-lot minor subdivision would be allowed on AG-zoned property.
- Would the Board have other opportunities to require open space dedication for a greenway on this property? Bruce said this would likely be the only chance for Lot 2 through dedication; if Lot 1 is subdivided again in the future, the Board might be able to address dedication on the north side of the stream.
- Where has open space been dedicated nearby? Bruce pointed out the areas on a Future Land Use map.

Bruce reminded the Board that they could choose to require a hybrid plan in which the floodplain could be in a drainage easement, but only a portion of it would be open space dedication or a trail easement. He said a public access easement and open space dedication easement is basically the same, and it would appear as an easement on the plat. In the future, if the owner wants to give the property to the Town and the Town is willing to accept it, that could happen, but it doesn't automatically happen at this point.

Bruce said the Jordan Lake Rules apply to stream buffers, and a 50-foot riparian buffer is required on either side. The applicant has proposed that as well as an additional 20 feet for open space and the drainage easement along the south side of the stream on Lot 2. This option would give the Town an opportunity to put a trail in the additional 20-foot area being offered, but the remainder of the flood zone would not be in a drainage easement.

Leybourne said the concept of the road connection was a good one, but that it was not very practical. Bruce said another consideration is that if the road connection were made, the road might become a cut-through for traffic, and that subdivision roads were not built to be thoroughfares.

Chuck Truby, president of CPT Engineering, spoke on behalf of the applicant. He said the property is unique in that it is divided by a major stream and that it makes sense to subdivide the property there. Because it is a FEMA-regulated stream, a bridge would be required, and although cost is not supposed to be a consideration for the Board, it could cost \$2 million to put in a bridge and join the roads. Truby said the development ordinance requires the applicant to dedicate the floodplain as drainageway and open space, but asked when it is required that the property be deeded to the Town. He said the applicant is willing to give an additional 20 feet beyond the riparian buffer on the south side

of the creek where the Town could build a trail if it ever wanted to. On the other hand, Truby said if the applicant was required to dedicate and deed the area from one edge of the flood zone to the other, he would be giving up 6-7 acres of his property. Doing it as an easement instead of a dedication would allow Oak Ridge the same rights to build a trail, he said.

Bruce said putting in a drainage easement would just designate on the plat where the water flows on the property. Without the drainage easement, someone could get a floodplain development permit and perhaps build something there if the requirements could be met. The Town's ordinance requires if you are in a flood zone, you must put in a drainage easement, Bruce said.

Bob Connell, the applicant, said nearly half of the 16.88-acre tract is in the floodplain, and that the economic value of the property would diminish radically if too many dedications or easements were required. He said he was trying to be practical and cut the property into two pieces instead of selling it as one, and the person who had been leasing the property for the last several years was only interested in purchasing the portion of the property on the Gumwood Road side of the creek. Truby said he had shown a drainage easement on the property that was 50 feet from the top of the creek bank on each side of the stream, and the only thing not being done as required is that a drainage easement was not being created from floodplain to floodplain. He added that the applicant was trying to abide by the rules, but that this was a unique situation because the floodplain on this property is so large.

Regarding the road connection, Connell said the question of eliminating it from the Thoroughfare Plan arose when Crutchfield Farm was developed about 10 years ago. Connell said Oak Ridge had paid an engineer to look at different alternatives for the road, and that the engineer had determined the cheapest way was to turn left at the end of Crutchfield Farm Road and build the connector to Bunch Road along a different path than through his property.

In response to a question, Bruce said the specific location of the creek crossing on the Land Use Plan was likely not intentionally made on Connell's property, but that it would be nice to cross it at some point. Although the applicant is showing a 50-foot stream buffer on both sides of the creek, the additional 20 feet is only proposed for the south side of the stream, so public access would only be on one side. Truby said he believed the trail, if built, would be on the south side of the creek because the north side is all wetlands. Eichlin asked why it would be an issue to put the additional 20-foot buffer on both sides of the stream because nothing would be able to be built in that area anyway. Connell agreed with Truby that putting the trail on the south side of the creek would be the practical place for it because it is higher ground and water never rises to that area; he said the area on the north side of the creek is extremely wet all the time, not just when it rains a lot.

For disclosure, Nodine pointed out on the map where his property is located nearby and adjoins the proposed greenway; Nodine's property does not adjoin Connell's property, and Board members agreed by consensus that there was no issue with Nodine voting on the issue.

**Bobbi Baker** made a **motion** to approve the waiver for the road connection due to physical hardship because of the topography. **Nancy Stoudemire** seconded the motion, and it was passed unanimously (7-0).

Regarding the subdivision, Nodine said he could appreciate that the property owner did not want to give half of his property away in order to subdivide it, but said he felt it was important that the proposed greenway be recognized on the plan. With the road connection eliminated, Nodine said he thought the Town needs to ensure that it has what it needs for the future trail/greenway system. Bruce said the proposed subdivision plan indicates there is a public drainageway and open space easement on the property, but the wording could be changed to indicate more clearly that it is a public access easement for a future greenway.

In response to a question from Leybourne regarding an easement versus a dedication, Bruce said a dedication would give the Town ability to accept the property in the future if the owner no longer wanted it; although the Town Attorney may have a different opinion about the process, Bruce said he had discussed the issue with Guilford County's Open Space Planner, who says if he sees an open space dedication on a plat, he considers it an easement. For it to be a dedication, the property owner has to sign a deed as the grantor and the County has to be willing to accept the property.

Jerry Cooke said this was the same situation as Greensboro had gone through with Starmount Company properties – the company had developed properties up to the streams and then dedicated the drainage areas for public space to the city, who now maintains them. Leybourne disagreed with Cooke, saying his example was just the opposite because in this case, the property owner was not willing to dedicate the area around the stream to the public as Starmount had done.

Gardner asked if Oak Ridge wants to own property that it doesn't have the infrastructure to access, and Leybourne said he thought the Board was now talking about an easement, not a dedication. Stoudemire asked if the ordinance requires that all floodplain be dedicated to the Town. Bruce said the ordinance instructs the Board to look at information such as the Open Space Plan, how big the development will be, whether nearby properties have been dedicated, etc.; floodplain could be dedicated as open space or put in a drainage easement, which would not allow public access, or the Board could come up with a mix of the two options. He added that he did not see how the Board could waive a drainage easement, which is not really tied to the subdivision ordinance; it just says if there is a big rain, that's where there would be water. Leybourne said the ordinance also says nothing can be built in the drainage easement, and Bruce said it would be extremely inadvisable to build anything there anyway.

Stoudemire asked if the drainage easement was adequate on the site plan as presented, and Bruce said no, but that the bigger concern for him was on Lot 2 where there is no house, it is less than 10 acres, and it clearly comes under the subdivision rules. He added that he thought that entire 100-year flood zone should be shown in a drainage easement. If the drainage easement were going to be excused, Bruce said it could probably be justified on Lot 1 because the property is larger than 10 acres, so it does not fall within the subdivision requirements and there is already a house located there.

Truby discussed the issue with Connell, and said Connell would be willing to place the entire floodplain at the back of Lot 1 in a drainage easement.

Bruce reminded the Board that it had another option, which would be a hybrid of the first two choices. If the Board took the position that the entire floodplain needed to be in a drainage easement because there is a significant amount of floodplain, but that the Board didn't want to encumber half the property although it could still envision a greenway in the area, Bruce said he thought a greenway easement would be fine in order to allow the trail there. At some point in the future, the Town might decide it wanted to accept it.

Connell said he understood the proposed plan had a 20-foot greenway easement outside the 50-foot riparian buffer; that easement would grant the Town all privileges to use the property, yet still allowed the deed to remain whole and without constraints. Leybourne responded that he thought the issue was that the Board wants to see the additional 20-foot greenway easement on both sides of the stream. Bruce said the Board would also need to consider if it wants the entire 70 feet on both sides of the stream dedicated in case the Town decides in the future that it wants the property deeded.

Stoudemire referred to the Pedestrian Plan, saying it looks like the trail is shown crossing the creek in the area being discussed, and she felt the Board should require the floodplain dedication so the trail could be built as shown on the Pedestrian Plan. Although a bridge for a road might be impractical, a pedestrian bridge might not be as great an issue, she said. Because a plan for this property might never come before the Town again, Stoudemire said she thought it was important to have dedication on both sides of the creek. Leybourne said a 70-foot dedication on both sides of the creek seemed like a practical alternative that would allow the Town to construct a trail anywhere along the creek without requiring the property owner to dedicate the entire floodplain.

Truby then asked if the Board was now saying they would like the area to be dedicated and not an easement, and Bruce said yes, but that it would be limited to 70 feet on either side of the creek. Truby asked how the property owner would know if the Town wants the property deeded to it in the future, and Bruce again explained how Guilford County had addressed the issue in the past; he said the county does not compel a property owner to deed the property, but it could be done through mutual consent of both parties. Nodine asked how other

sections of greenway had been handled, and Bruce said the property owner has full use of and pays taxes on the property, but could not build on it. Leybourne asked if there was a problem for the property owner if the Board required a dedication, and Truby said he didn't think so, as long as Oak Ridge does not demand a deed for the property in the future. Leybourne said it was impossible for the Board to know what the Town might do in the future.

Stoudemire asked if a new site plan would be required, and Bruce said yes, but it could come back before the Board or it could be approved by staff. He clarified that the riparian buffer on both sides of the creek needs to remain and said he understood what the Board wanted on a revised plan. Truby said he also understood.

**Nancy Stoudemire** made a **motion** to accept the site plan with the addition of dedication of the floodplain from 70 feet from the top of the bank on either side of the creek and a drainage easement along the entirety of the 100-year floodplain on Lot 2 with no other encumbrances on Lot 1. **Bobbi Baker** seconded the motion, and it was passed unanimously (7-0).

**C. Subdivision Case #14-02-ORPL-00513. Linville Road Associates Unified Development Plan.** The property is located on the northwest corner of N.C. 68 North and Linville Road, in Oak Ridge Township. It is Guilford County Tax Parcels 0165810, 0165794, 0165813, 0165814, 0165793, and 0165789. This Unified Development Plan consists of three existing building lots and three existing special purpose lots. Zoned CU-GO-M, CU-HB, and RS-40. Greensboro (GS-III) Watershed. Owner/Applicant: Linville Road Associates, LLC, C.D. Fremont Holdings, LLC, Fighting Tarheels II, LLC. Designer: Land Solutions.

Bruce presented the case from the staff report. He explained this is an existing development and the only change being requested is the property boundary between Lots 1 and 3. Currently the boundary is in the middle of the access drive, but the applicants are proposing that Lot 3 have all the road frontage from N.C. 68. Bruce said there is a potential buyer or tenant for Lot 3 who would like to use the utilities at Oak Ridge Commons, and it would be easier to get approval from the Utilities Commission if no easement were involved. He said the solution would be to develop a Unified Development Plan for the complex and then move the property lines to make Lot 3 contiguous to Oak Ridge Marketplace. For anyone driving along N.C. 68, there would be no visual changes, Bruce said.

Philip Cooke, managing partner of Fighting Tarheels II, LLC, said the object of the plan was simply to get a contiguous line for utilities to Lot 3. The three property owners would decide who among them who was responsible for issues such as driveway maintenance and fixing potholes.

Stoudemire asked if the complex would stay part of a Unified Development Plan, regardless of who owns the individual parcels, and Bruce said yes. He added that it needs to be clearly defined on the plat what responsibilities the various property owners have.

**Carl Leybourne** made a **motion** to approve the subdivision plan for the Unified Development Plan. **Bobbi Baker** seconded the motion, and it was passed unanimously (7-0).

Bruce reminded the Board that the Town Council is required to also approve the plan, so the Board's approval would serve as a recommendation to the Council.

**5. CITIZEN COMMENTS**

None

**6. ADJOURNMENT**

**Nancy Stoudemire** made a **motion** to adjourn the meeting at 8:21 p.m. **Carl Leybourne** seconded the motion, and it was passed unanimously (7-0).

Respectfully Submitted:



Sandra B. Smith, Town Clerk



Doug Nodine, Chair