



**OAK RIDGE PLANNING & ZONING BOARD MEETING
JANUARY 24, 2019 – 7:00 P.M.
OAK RIDGE TOWN HALL**

MINUTES

Members Present

Ron Simpson, Chair
Bobbi Baker, Vice Chair
Nancy Stoudemire
Patti Paslaru
Larry Stafford
Tammy Gardner
Jason Streck, Alternate (Sitting)

Staff Present

Sean Taylor, Planning Director
Sandra Smith, Town Clerk

Members Absent

Steve Wilson
Ed Treacy, Alternate

1. CALL TO ORDER

The meeting was called to order by Chair Ron Simpson at 7:00 p.m.

2. APPROVE AGENDA

Bobbi Baker made a motion to approve the meeting agenda. Jason Streck seconded the motion, and it was passed unanimously (7-0).

3. APPROVE MINUTES

Patti Paslaru made a motion to approve the minutes of the December 20, 2018 meeting. Bobbi Baker seconded the motion, and it was passed unanimously (7-0).

4. PUBLIC HEARING

REZONING CASE # RZ-18-01: HB and AG to CU-TC-R. The property is located on the west side of N.C. Highway 68 North, approximately 800 feet south of the intersection with Fogleman Road, in Oak Ridge Township. It is Guilford County Tax Parcels #0162806, 0162815, and 0162821 (part), consisting of approximately 29.45 acres, and is located in the Greensboro (GW-III) Watershed, and Scenic Corridor Overlay Zone. The property is owned by Israel Family Limited Partnership and Larry J. and Kathy R. Mills. *(Note: The case was continued from the December 20, 2018 meeting.)*

Simpson went over the procedure for the public hearing. He said that a different rezoning case for that same property had been brought before the Board in April or

May, but it did not receive a favorable recommendation from the Board. As a result, the applicant decided not to move forward with Town Council hearing the case. He noted that the Planning & Zoning Board is an advisory board to the Town Council. He said the applicant had then brought this case before the Board in December, but then asked for a continuance in response to neighboring property owners' concerns about the case being heard so close to the holidays. He reminded the Board members that this is a different case than what was brought to them in April or May, and they are not bound in any way by their previous vote.

Planning Director Sean Taylor 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 some changes to the development conditions had been made, including:

- Removal of the Conditional Use to include the single-family lot on the southwest side of the pond
- Removal of the Development Condition to provide either an approved fire safety vehicle access route or require installation of an individual fire suppressant system for any home construction on the west side of the lake
- Addition of the Development Condition that all area west of the existing pond/lake be retained as common elements

A Conditional Use was proposed for:

- A maximum of 48 townhouse dwellings.

The following Development Conditions were also included:

- Provide a 50-foot undisturbed buffer, except for drainage devices and utilities, adjacent to the Twelve Oaks Subdivision
- Provide a 50-foot undisturbed buffer, except for drainage devices and utilities, adjacent to the Old Mill Homesteads Subdivision
- Provide a publicly accessible sidewalk on one side of all drives within the townhome section
- Provide a publicly accessible natural surface walking trail along the northeastern side of the lake
- Provide a publicly accessible sidewalk to the 68 Place development
- Provide berming and landscaping along Highway 68 as shown on the zoning sketch plan
- Provide left and right turn entry lanes with 100 feet of storage as recommended for site access in the Traffic Impact Analysis (TIA), which will be constructed prior to site development.

Taylor said that by acknowledging the unique circumstances of this property and its partial inclusion in the Town Core, and by providing the transportation safety improvements recommended in the TIA, staff recommends approval of the rezoning.

Jason Streck asked for the difference in the wording of the staff report just presented to the Board and the staff report that was created for the case when it was originally to have been heard in December. He specifically asked about the sentence which says: "The proposed request is not strictly consistent with the recommendations of the Oak Ridge Future Land Use Plan."

Taylor said he had created a new format for the staff report and had removed a bit of language from the previous staff report. He said he had taken the wording from the original staff report created several months ago by the previous Planning Director when he created the staff report for the December meeting, and he had made the changes in the staff report for this meeting as a result of him becoming more settled into job here as Planning Director. He added that he did believe the request was consistent with TC-R zoning.

Simpson opened the public hearing.

Proponents:

- Bob Dischinger of Evans Engineering, 4609 Dundas Drive, Greensboro, said he was representing the developer, Paul Milam. He presented the case to the Planning & Zoning Board back in April, but the case was withdrawn before it was heard by the Town Council. He presented a presentation to the Board, which is hereby incorporated by reference and made a part of the minutes. He said significant changes had been proposed for NC 68, and that this was a unique property located close to the center of the Town and with the proposed Summit Church to be located across the street. Dischinger said he served as a member of the Land Use Plan Steering Committee, and said he believed this was the type of neighborhood the members of the committee had in mind when suggesting this type of zoning be allowed. He showed a map of the property and said part of it was located in the Town Core and part of it in the Transition Zone. He said constructing new developments among previously developed property is known as infill, and said this type of development was ideally situated in this location, which is between residential and commercial property. He said they had met with neighbors from the Twelve Oaks and Old Mill Homesteads homeowners' associations, who had asked for development conditions, which had been included. Dischinger talked about how this development meets various goals and policies of the Land Use Plan. He said very few parcels are now suitable for this type of zoning, and that the plan included sidewalks, trails and a public sidewalk to 68 Place. He said Milam had agreed to the condition of constructing turn lanes prior to any site development. He also said the reduction in the speed limit just north of this to 35 mph had a significant impact on this site. Dischinger said he thought the development was reasonable and in the public interest, and he asked the Board for a favorable recommendation.

Opponents:

- Carl Leybourne, 8514 Rosedale Drive, said he lived on a property adjacent to the proposed development. He said what is posted on the Town website is the first staff recommendation (prepared for the December meeting), not the revised recommendation presented by Taylor. Like Streck, he also pointed out that the previous version of the staff report said the rezoning was "not strictly consistent" with the Land Use Plan. Leybourne said he did not think it was important how the Board votes, because the Town Council had made it clear that they expect the P&Z Board to be advisory on technical matters and alignment with the Land Use Plan. He told Board members to do what

they thought was right and to form their own opinions, but he asked that they vote unanimously or to clearly articulate the reasons for their vote. He said excellent improvements had been made on NC 68 and with the reduction of speed limits, but the TIA did not include the area to the south of the development where frequent accidents and fatalities had occurred. He questioned the storage lane heading south. He said the bottom line with traffic was that it was an emotional topic and the only thing that could be controlled was the number of trip counts that would come from this development every day as in direct relationship to density. He said the last time this case came forward, the Board primarily debated traffic and not the Land Use Plan. Leybourne said he thought the Land Use Plan encouraged putting such dense development at the center of Town, and setting a precedent here would discourage development within the Town Core. He discussed the Town Core and the Transition Zone. He said the type of development this plan encourages should only be allowed, if the Board agrees to allow it, once the wording of the Land Use Plan is changed.

- Danny Brooks, 8102 Hunting Cog Road, said he had lived in Oak Ridge for four years and although he loved the space and the lot sizes, and about the only thing he did not like was NC 68. Regarding the Land Use Plan, he said he was concerned about the density of putting so many homes in such a small area. He said the Town website said the Land Use Plan was put together by volunteers and that it took about a year to complete. He wanted to know if any exceptions to the Land Use Plan had been granted. Although he said he realized the Land Use Plan was not an ordinance, he asked what the point of having it was if the Town does not adhere to it.
- Rebecca Glover, 5401 Edgerunner Road, said she had two sons who were involved in an accident after being rear-ended turning onto Hunting Cog Road. She said traffic is already heavy on NC 68 and sometimes it takes 15-20 minutes to get out of her subdivision, depending on the time.
- Mike Stone, 8112 Hunting Cog Road, said he was there to ask for the Board's support of the Land Use Plan and its limitation. He said the Land Use Plan sets out to provide for clustered, mixed-density houses inside the Town Core and only in the Transition Zone if specific technical thresholds are met. He read an email from Sameh and Lisa Rofail, who were unable to attend the meeting who were against the rezoning. The email said this was the second time the Town had considered a rezoning adjoining their property – first 68 Place and now this development. He gave the Board handouts, which are hereby incorporated by reference and made a part of the minutes. He read Policy 2.1.1 from the Land Use Plan, which allows up to two units per acre in the Town Core and possibly in the Transition Zone, and he said this is the only time the Transition Zone is referenced. He pointed out that only 20 percent of this property is in the Town Core and the remainder is in the Transition Zone, and there are no adjacent developments with similar densities. He argued against points made in the staff report, and he said the Land Use Plan is very clear about expectations for the Transition Zone. He said the Planning Director makes a convoluted argument for supporting the rezoning, and said the roles of the Town Manager, Planning Director and the

Planning & Zoning Board are to make sure developers meet the technical requirements of the ordinance and Land Use Plan. He said neighbors would support the zoning request for the 6-acre portion of the property that is within the Town Core.

- Carl Leybourne, 8514 Rosedale Drive, spoke again, saying the Land Use Plan does not encourage development in the area southwest of the Town Core. It encourages density within the core, he said.

Rebuttal – Proponents:

- Bob Dischinger of Evans Engineering, 4609 Dundas Drive, Greensboro, said he had heard several people talk about policy 2.1.1 in the Land Use Plan, but he also asked the Board to consider the conceptual drawing he had presented earlier. As a member of the Land Use Plan committee, he said the committee had discussed at length the idea of concentric circles for the Town Core and the Transition Zone; they had created those areas instead of the previous Town Core area, which consisted of specific property lines. He said he kept hearing about setting a precedent if this rezoning is approved, but that had already been done when the Whitaker Farms subdivision was rezoned because part of that property is in the Town Core and part in the Transition Zone – although he said most of it is in the Town Core. Regarding the focus on the area southwest of the Town Core, Dischinger said that just happens to be where this property is located. Regarding infill in the Town Core, Dischinger said this is the classic definition of infill. He said this development would provide buffers between it and other nearby developments, and by removing the single-family lot, there would be nothing but green space as well as a 50-foot undisturbed buffer bordering all adjoining developments. Regarding the vehicle accident discussed, Dischinger said he was sorry, but the efforts of the Town and the developer of this project had gotten the speed limit reduced to 35 mph on NC 68 north of the proposed development. He said if the rezoning is approved, NCDOT had agreed to lower the speed limit to 45 mph south of the development to Alcorn Road. He said this development would create additional traffic in the area, but it would also provide turn lanes on NC 68.

Rebuttal – Opponents:

- Mike Stone, 8112 Hunting Cog Road, said he agreed with the developer that the curved line through the property showing the Town Core and the Transition Zone does not follow property lines, but said it is there to delineate specific areas. He said if this property were 80 percent in the Town Core and 20 percent in the Transition Zone, there would likely be a different discussion. He said the vast majority of this development is outside the Town Core. Stone said the staff report said how the development met policies in the Land Use Plan such as 3.1.1 (landscaping), 2.2.1 (sidewalks) and 2.2.2 (trails), but the previous staff report says it is not “strictly consistent” with the recommendations of the Land Use Plan. He said if the developer cannot meet all the requirements, a request should be denied. He said if a development is proposed that has 60 homes and only one entrance, no sidewalks, no buffers, a building that is too large – even if it is a church, there is no approval because it does not meet the technical requirements of

the ordinance. Stone said if a development does not meet the technical requirements of the Land Use Plan, it should not be approved.

- Carl Leybourne, 8514 Rosedale Drive, said he understood the concept of circles in the Land Use Plan, but if the Town wants to go outside the area designated, it should redo the Land Use Plan and draw a larger circle. He also asked the Board to count the number of units in the Town Core and decide if this is just a play to develop in the Transition Zone.

Simpson closed the public hearing.

Board questions/discussion:

- Patti Paslaru said in a newspaper article, it said the development would have a maximum of 44 units – 30 twin homes and 14 single-family homes – but in the application, it said a maximum of 48 units. Developer Paul Milam said that the application requesting approval of 48 units was correct. Paslaru said she thought this was one of the easiest cases to decide. She said it does not meet the Land Use Plan and up until this meeting, it did not meet the Planning Director’s definition of conforming. She said the type of zoning requested is not contiguous to any similar zoning. She said she thought this was a technical issue to decide, because the request does not conform to the Land Use Plan.
- Jason Streck asked if the single-family home site could be developed later. Dischinger said they had added a development condition that the single-family lot be removed so they had also removed the condition regarding installation of an individual fire suppressant system for any home construction on the west side of the lake. He said they had also added the condition that everything on the west side of the pond be common area, so the single-family home could not be added back in later.

Streck then asked Planning Director Taylor to explain what had justified his opinion in the staff report changing from one month to the next. Taylor said there is a commercially zoned property adjoining this property where is already approval to construct an additional building, which would further intensify the use; he said if the subject property is rezoned, that was what he meant about it being a buffer between the commercial property and adjoining residential properties. He said he also looked at the amount of open space that would be preserved, especially with the single-family lot being removed. Taylor said one of the objectives in the Land Use Plan is to preserve open space, and therefore he now believes the proposed rezoning fits the Land Use Plan. Streck asked if Taylor was saying he changed his opinion because the plan changed. Taylor said yes, because more open space was being preserved than on the previously requested plan, so he now believes it is more consistent with the Land Use Plan. Streck asked if the rezoning request was now “strictly consistent” with the Land Use Plan, which Taylor had said that it was not the previous month. Taylor said yes, that he believes the request is strictly consistent with the Land Use Plan.

- Bobbi Baker asked if the Board should look at what was submitted previously and incorporate the changes, or if they should look at this as a new proposal. With the change of conditions, Taylor said this is a new proposal from the previous month. He said the speed limit change had not been made when the application was submitted previously. He also said that he had now been in his position nearly a year and has a more clear idea of what is happening on NC 68 and proposed NCDOT improvements to NC 68, and all of those things had an impact on his recommendation.

Regarding the illustrative plan shown by Dischinger, Baker said there were two townhomes shown on the eastern border of the property that abut two existing houses. She said the Board had asked the developer to discuss the rezoning with the owners of those two houses, and she asked if that had occurred. Milam responded that he had tried on several occasions both by phone and by knocking on the door to reach one of the property owners, and he got no response. He said he had spoken to Bob Yates, the property owner on the corner, and he had no issues. He said the Mills family owns the other house, and part of their property is involved in the rezoning, so they had no issues. Milam said he had spoken with the owner of the home directly beside the Mills, and he did not indicate that he had any concerns. Baker said with the new design and zoning conditions, she was concerned that there was no buffer between those two homes and two of the twin homes shown on the illustrative plan. Milam said the Mills family was present at the meeting, and they had discussed the issue. Dischinger said if the rezoning is successful, the technical site plan review was still required. He said there was probably a requirement for a buffer between a townhome and a single-family, detached dwelling. Baker said the area just off NC 68 is currently open around the two existing homes. Dischinger said no desire for anything particular had been expressed by those homeowners as it had been from the Twelve Oaks and Old Mill Homesteads neighbors.

- Nancy Stoudemire said she liked this type of development and the way it looks and the fact that more open space will be preserved. She said she had also served on the Land Use Plan steering committee. But she said she was still struggling with whether it is contiguous to a parcel with similar density. She said it appeared there were two interpretations. Taylor responded that the TC-R zoning is a new product, so it is hard to have anything with similar density be contiguous. For example, he said the TC-R development on Zack Road has Oak Ridge Military Academy, RS-30 and RS-40 surrounding it, and that you cannot compare apples and oranges. Stoudemire asked whether all the Town Core proper would have to be developed before moving into the Transition Zone when considering infill development. She said she was not sure how to interpret that issue. Regarding other properties for sale within the Commercial Town Core, such as along NC 68, Taylor said sellers generally want to get commercial prices when they sell their property, so those properties are not really feasible for residential development. He said he thought that was one reason this property was chosen, but that many factors were likely considered, such as what land is available and what is currently developed.

- Paslaru said there is land available in the Town Core, but the price of it should not be a consideration when it comes to adhering to the Land Use Plan.
- Simpson asked Dischinger if the townhomes would be able to be seen since the single-family lot had been removed from consideration and the green space increased. Dischinger said perhaps in the winter, when the leaves have fallen. He said when considering the undisturbed buffers and the fact that the 3-acre, single-family lot was removed, there would not be an unobstructed view of any of the townhomes. Simpson asked if there were required setbacks for the townhomes closest to the existing houses, and Dischinger said there are typical building setbacks and there would also be landscaped buffers.

Regarding the change in wording of the staff recommendation, Simpson told Taylor that he understood that he was feeling more comfortable in his position after spending more time here. He said his question was whether the dotted line between the Town Core and the Transition Zone is a hard line or a soft one. He said he surmised that Taylor saw it as a soft line, depending on the circumstances. Taylor said his interpretation on this application was based on the Transition Zone and the fact that this property is 100 percent either in it, the commercial development just to the north of this property, and this property located between them. Simpson said that only 20 percent of this property is in the Town Core and the remainder is in the Transition Zone, then asked if Taylor's interpretation was it was capable of being interpreted as being developable in the same light. Taylor said his professional opinion was that the answer was yes.

- Paslaru said that the Zack Road development had been mentioned, but 100 percent of it is in the Town Core. She said the Transition Zone was concerning to her, and part of the Transition Zone is very close to her property so she was very interested in it. She said she had asked a lot of questions and was told that development would first occur in the Town Core. She said if the proposed development was in another area within the Town Core, she would be supportive of it. She said until the Town Core is totally developed, she did not think the Transition Zone should be developed. She said she thought it was not consistent with the Land Use Plan or with the surrounding developments.
- Jason Streck said he was simply looking at the issue technically, and that he was not part of the Land Use Plan steering committee. He said when he reads the Land Use Plan, he interprets it as saying TC-R zoning may be appropriate in the Transition Zone if it is contiguous with existing or approved developments with similar densities. Streck said he did not see any similar densities adjoining this property. He said he did not see this proposal being consistent with the Land Use Plan. He said that staff had said the zoning was "not strictly consistent" on an earlier version of the staff report, and he had a hard time thinking the Board should disagree with that.

- Baker said the conflict she had was that she supports the plan and she thought it speaks to what the community says it wants – a place to downsize here. She said she liked the plan even more now that the single-family lot had been removed. But she said the arguments had been persuasive regarding the technical language. She said she felt it was a conflict that the community says it wants this type of housing, but neighbors are saying “not in my backyard.” She said she thought the traffic issues would still be there, but that the developer had done an admirable job in trying to mitigate those.
- Stoudemire said she was also torn. She said she understood and had pushed for more dense, environmentally friendly housing, but she was torn because she believed that type of development should be done in the Town Core first. She said she personally thought this was a nice spot for such a development, but the issue was not about what she liked, but what the ordinance says.
- Simpson said the issue is troublesome because it is not clear cut. He said this was a unique parcel, and he was trying to think of a better use for the property than what had been proposed. He said the traffic issue was going to be improved. He asked Board members to use their best judgment.

Patti Paslaru made a motion that the zoning request be rejected based on the fact that it is not consistent with the adopted comprehensive plan of Oak Ridge. Jason Streck seconded the motion, and it was passed by a 5-2 vote (Paslaru, Streck, Baker, Gardner and Stoudemire voting in favor, Simpson and Stafford voting in opposition).

Simpson called for a 5-minute recess at 8:33 p.m. The Board came back into session at 8:40 p.m.

5. NEW BUSINESS

A. Annual election of Chair and Vice Chair

Bobbi Baker nominated Ron Simpson as Chair. With no other nominations, Simpson was elected Chair unanimously (7-0).

Ron Simpson nominated Bobbi Baker as Vice Chair. With no other nominations, Baker was elected Vice Chair unanimously (7-0).

- B. SUBDIVISION CASE # SUB-19-02: Wolf Ridge:** The property is located on the east side of Williard Road, approximately 2,922 feet north of the intersection with Stafford Mill Road in Oak Ridge Township. It consists of approximately 42.67 acres. This proposed subdivision consists of 34 lots and is zoned RS-40. It is located in the Greensboro (GW-III) Watershed and is owned by Peaceful Ridge LLC (Joe Brady).

Planning Director Sean Taylor 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 all lots meet the minimum requirements for RS-40 zoning, and there is a trail easement along the eastern boundary of the property, which is an area in the flood plain that is dedicated to the Town per ordinance.

Taylor said staff had requested the applicant submit a waiver for a stub street connection because of the lack of feasibility that a future connection would ever be made; the engineer for the project had requested such a waiver. He recommended conditional approval contingent on approval of all subdivision technical requirements.

Regarding fire protection, Paslaru said she was concerned with the length of the cul-de-sac because it looked like it was longer than the maximum of 1,500 feet. Streck asked about buffers between the development and existing properties. Taylor responded that landscaping buffers are not required with RS-50 zoning.

Bobbi Baker made a motion to approve the waiver due to physical hardship because of the size of the tract and its topography, condition and the nature of adjoining areas where the existence of other unusual physical conditions, strict compliance with the provisions of this article would cause unusual and unnecessary hardship on the subdivider. Jason Streck seconded the motion, and it was passed unanimously (7-0).

Nancy Stoudemire made a motion to approve the subdivision case for SUB-19-02 conditionally contingent upon planning department staff approving all technical requirements. Patti Paslaru seconded the motion, and it was passed unanimously (7-0).

6. UPDATE FROM STAFF REGARDING PUBLIC NOTICE CHANGES

Simpson said there had been a discussion at the previous meeting about whether the public was receiving timely notice of rezonings after some citizens had suggested not enough time was being given. He said Town Council had taken up the issue almost immediately, and he asked Taylor to explain what Council had approved.

Taylor said Town Manager Bill Bruce had presented a memo, which is hereby incorporated by reference and made a part of the minutes, giving Council options on how to increase the amount of notice for public hearings. He presented the memo, which had the option Council had chosen highlighted. He also presented a drawing of a larger, colorful, new public hearing sign which will be posted on properties being considered for public hearings.

5. PUBLIC COMMENTS

- Mike Stone, 8112 Hunting Cog Road, said he was proud of the Board and the level of consideration, deliberation, questions and thought put into each decision. He said he assumed there would be a public hearing, since the new notice requirements would be changes made to the Development Ordinance. Taylor said public hearings would be held, possibly the following month. Stone said he loved the new public hearing sign, and he thought the Town should send rezoning public hearing letters out by registered mail.

6. ADJOURNMENT

Jason Streck made a motion to adjourn the meeting at 9:13 p.m. Patti Paslaru seconded the motion, and it was passed unanimously (7-0).

Respectfully Submitted:

Sandra B. Smith, NCCMC, CMC
Town Clerk

Ronald D. Simpson
Chair