



**OAK RIDGE PLANNING & ZONING BOARD MEETING
MARCH 23, 2017 - 7:00 P.M.
OAK RIDGE TOWN HALL**

MINUTES

Members Present

Ron Simpson, Chair
Bobbi Baker, Vice Chair
Carl Leybourne
Tammy Gardner
Larry Stafford
Ed Treacy, Alternate (Sitting)
Steve Wilson, Alternate (Sitting)
Tony Cooler (Not sitting)

Staff Present

Bill Bruce, Planning Director
Sandra Smith, Town Clerk

Members Absent

Nancy Stoudemire
Patti Paslaru

1. CALL TO ORDER

The meeting was called to order by Chair Ron Simpson at 6:59 p.m.

2. APPROVE AGENDA

Because the text amendment (item 4.C.) relates to one of the rezonings also on the agenda, Simpson suggested switching the order of items 4.A. and 4.C.

Ed Treacy made a **motion** to approve the meeting agenda as amended. **Bobbi Baker** seconded the motion, and it was passed unanimously (7-0).

3. APPROVE MINUTES OF THE FEBRUARY 23, 2017 MEETING

Steve Wilson made a **motion** to approve the meeting minutes. **Larry Stafford** seconded the motion, and it was passed unanimously (7-0).

4. PUBLIC HEARING

A. TEXT AMENDMENT. Amendments were proposed to Chapter 30-9 Definitions and Chapter 30-351 Dimensional Requirements which would amend the definition of townhouse and to amend building separation requirements in the TC-R zoning district. The applicant is Chuck Truby on behalf of PJ Village Woods LLC.

Planning Director Bill Bruce presented the staff report, which is hereby incorporated by reference and made a part of the minutes. He explained by the text amendment had been submitted by the applicant, Chuck Truby, on behalf of PJ Village Woods LLC. Bruce said the

proposed text amendment included two changes: the definition of a townhouse dwelling, and a change in the building separation requirements. Currently townhomes are only allowed in the Town Core, Bruce said, so the only definition the change would apply to is for approved zonings within the Town Core boundaries. He read aloud the description of a townhome, which currently says "a building consisting of single-family residences attached to one another in which each unit is located on an individually owned parcel, generally within a development containing drives, walks, and open space in common area." Truby was requesting that two words be added, which would allow for attached or detached residences within a townhouse development. He said the other component to the text amendment proposed a reduction in building separations from the current 20 feet to the proposed 15 feet. Bruce said fire-rated walls would be required, but otherwise the County said there was no reason why the change could not be made. He said the middle unit in a set of attached townhouses does not have any light or air on the sides of the building. He added that the proposed text amendment would only apply to townhouses in the TC-R (Town Core-Residential) zoning and to buildings of two stories or less. Bruce said reducing the permitted height of a building would lessen the impact of the building separation reduction. He added that the applicant was present and could give additional information.

Ed Treacy asked if Bruce had reviewed the proposed distance change with the fire chief, saying that he understood that the chief had expressed concern to another Planning & Zoning Board member that keeping the building separation at 20 feet reduces the chances of fire jumping from one building to another. Bruce said the fire chief had been sent a copy of the packet and that the chief did not contact him with to raise any concerns. Treacy said the chief had talked with Planning & Zoning Board member Patti Paslaru, who was unable to be at the meeting, and Paslaru had asked Treacy to relay those concerns to the Board. Treacy asked Bruce if he reviewed plans with the fire chief, and Bruce said the County fire marshal's office had reviewed the proposed change. Bruce said the fire marshal's office is a part of the County's Technical Review Committee, which reviews plans.

Baker asked if the proposed change in building separation to 15 feet was in conflict with the County, and Bruce said no. He said as little as 5 feet building separation is permitted in some commercial zoning districts, and that this is purely a Town zoning decision.

Carl Leybourne said he had looked at the definition of a single-family residence and wondered what would distinguish that from a townhome with the proposed change. Bruce said perhaps it would make more sense to further define the meaning of a townhome. He added that townhomes are only allowed in TC-R zoning districts. Leybourne asked if the text amendment was just requesting a change for this development or if it was suggesting a broader ordinance change. Bruce said the change would be effective town-wide, but since townhomes are only allowed in TC-R districts, they would only be allowed in the Town Core. He added that Greensboro had made a similar change to its development ordinance, and that they had added language saying that a townhome lot is typically smaller than a detached house would be. Leybourne asked if a detached house would generally have to have a 40,000-square-foot lot, and Bruce said yes.

Simpson mentioned the fire code, and asked if he understood correctly that even though a detached townhome would be separate from other townhomes, it would still have to have a fire wall as if it were connected. Bruce said the County plan reviewer said that the exterior walls of detached townhomes would have to have some kind of fire-rated wall, but he did not know if it was the same as what is between attached townhomes. Bruce said he did not

doubt the fire chief's concern because it is legitimate, but that building code addresses requirements for detached townhomes and that they are allowed in other jurisdictions that are similar to Oak Ridge. He said without hearing specifically from the fire chief, he did not know how to address concerns he might have.

Simpson said changing the definition of a townhome to include detached units was confusing, but it seemed to only have meaning when clustered with other townhomes that do fit the traditional definition. Bruce said staff and the Board would apply an element of judgment, and that he thought it would be clear for any townhome development that is proposed. Simpson asked if it might provide a loophole for someone who wants to build a single-family residence on less than 40,000-square-foot lot and call it a townhome. Bruce asked the Board if it might help to be more precise in the language being proposed.

Tammy Gardner said a detached townhome would need to be in a neighborhood with other townhomes. She said if a text amendment is required to change the definition of a townhome, why not instead require a breezeway between the attached and detached units so that they are considered to be attached.

Treacy asked if fire hydrants were required, and Bruce said no. Treacy said that might be the difference in other jurisdictions where building separations of less than 10 feet are allowed.

Simpson opened the public hearing.

Proponents:

- Chuck Truby, an engineer with CPT Engineering in High Point, said the reason the change was being requested is that this is a new product, and that the new trend is that people do not want to live in adjoining townhouse units. He said that they do want to live in maintenance-free communities, and that all exterior maintenance would be handled by the homeowners' association. Truby said the change was being requested for Jerry Cooke's Village Woods development, which was started in 2006-07 with three units, and that there had been no interest in them. He said it was very important for the builder to be able to construct some single-unit townhomes in order to sell them. He said the proposed text amendment says the units would be located on individually owned parcels containing walks, parking and common areas, but if the Board was uncomfortable with that wording, it could craft the definition. Truby said the Village Woods development had already been graded and had pads, and that they were trying to fit a two-unit and a single-unit townhome on the same site. He added that other jurisdictions have only a 10-foot building separation, and that he was proposing a separation of 15 feet. He also said that he could not speak about fire hydrants, but said from a fire standpoint, he thought it would be better to have units 15 feet apart than to have attached units. Truby said the proposed changes would assist them in completing the Village Woods development.
- Jerry Cooke, 7911 Quiet Place, said Village Woods was well built on three levels, and he and his wife, who developed the property, had lived there nine years. Cooke said the problem is that the development was too expensive, and that he had never been able to sell or market the middle unit. Cooke said that was why he was changing the concept of the development – to get rid of the middle unit. He said the original plan was for seven pads with three townhomes on each, which would require a minimum of 21 acres; with

24 acres in this development, the minimum acreage required is far exceeded. He said there is currently a fire wall between each of the units at Village Woods, and he did not see a problem with that. He said there would be plenty of room to access all the units from the front and the back, so the 15 feet of separation did not seem to be an issue. He said the concept of one detached townhome beside two attached units had worked in Greensboro, and that this plan eliminates the middle unit.

- Patti Stokes, who owns the adjoining property at 1616 NC 68 North, said she is familiar with the site and the development. She said she respected that it is the job of the Board to comb through the details and make sure the ordinance is met, but she hoped this was a way for Cooke to move forward with the development. She said there was no way for him to develop the property as originally intended, and he had invested much time and money in the project. She said conceptually she had no problems with the development.

Opponents:

- None

With no need for rebuttal, Simpson closed the public hearing.

Treacy asked if it was necessary to update the ordinance for this zoning type, or if it was possible to simply approve a waiver for this specific property. Bruce said it would have to be done as a variance through the Board of Adjustment, and it would be fairly hard to prove.

Baker said she had seen freestanding townhomes in other communities, and she thought it would address the needs of Oak Ridge residents who are empty nesters or young people starting out.

Leybourne said he disagreed with Bruce and was not sure someone trying to build on a single small lot would be stopped at the technical review stage. Leybourne said in real estate, it is called a zero lot line.

Gardner said the property was already zoned as a townhouse neighborhood.

Simpson said it was tempting to look solely at this development, but that the Board needs to remember that the language in the text amendment would apply to any similar type development in Oak Ridge.

Gardner said she wondered how many potential townhouse developments in the Town Core there could be.

Simpson said he did not like the use of the word "generally" in the text amendment, which defines a townhouse dwelling as one "generally within a development containing drives, walks, and open space in common area." He asked Bruce if he thought the language was specific enough. Bruce said he was not sure it mattered what it was called, but in the TC-R zoning, homes are limited to two units per acre, so you could not have four detached units per acre. He said the fact that there was common area, private drives and walks maintained by a homeowners' association, he thought that should give the Board confidence in approving the text amendment.

Leybourne said he had all those things in his neighborhood of single-family residences. He said he was concerned about defining the ordinance for the Board and the Town Council when you could not tell the difference in whether it was a townhome community or not.

Simpson said he hated to delay the decision, but he felt the Board owed it to the Town to tighten up the language. Bruce said he would be happy to work with the applicant on that. Treacy asked if Bruce could consult with the fire chief on any concerns he might have. Bruce said yes, but he was unsure why the chief did not contact him if he had concerns.

Ed Treacy made a **motion** to recommend that the proposed zoning amendment as proposed be rejected based on 1) the language proposed regarding definitions is ambiguous, and 2) concerns received from the fire chief about the proposed building separation reduction. **Steve Wilson** seconded the motion, and it was passed unanimously (7-0).

B. REZONING CASE # RZ-17-03: AG to CU-RS-40. The property is located at the terminus of Bethel Ridge Drive in Oak Ridge Township. It is Guilford County Tax Parcel #0166410 (part), comprised of approximately 34.075 acres, and owned by Parker Family Limited Partnership.

Bruce read the property description for the record and presented the staff report, which is hereby incorporated by reference and made a part of the minutes. He said that the packet includes an environmental inventory and sketch plan for the property. The proposed plan is for a maximum of 32 lots, given that the Town has an ordinance limiting the number of lots per entrance in a subdivision to a total of 50. Bruce said there was opportunity for future road connections to Haw River Road and to the property located to the west, and that staff recommends approval of the rezoning.

Simpson opened the public hearing.

Proponents:

- Chris Rohrer of Land Solutions, 200 S. Regional Road, Greensboro, said he believed the request is consistent with the Land Use Plan and was in harmony with the surrounding properties. He said a letter had been sent to adjoining property owners, inviting them to an open house, and that 16-18 people attended. Most of them were from the Bethel Ridge subdivision. He said he felt the meeting went well and no additional conditions were requested. Rohrer said there was some concern regarding major construction traffic going in and out through Bethel Ridge, but the road is maintained by NCDOT and it is in the developer's best interest to keep the road in good shape. He said questions regarding water always come up and one neighbor said he had recently had to have a new well drilled, but he was the only one with any actual well problems. Rohrer said he believed the request was consistent with the Land Use Plan and was reasonable, and he would appreciate the Board's support.

In response to a question from Simpson, Rohrer said each lot would have an individual well and septic system.

Opponents:

- Paul Legras, 7500 Bethel View Court, said he was the homeowners' association president of Bethel Ridge. Legras said there were two major concerns: wells and the road. He was there was always a concern that individual wells would not continue to provide adequate water. He also expressed concern about the single entrance into the

subdivision through Bethel Ridge. He said the road was not in very good condition, and he suspected heavy truck traffic would only make it worse. He said they had no objection to the type of homes that would be built.

Rebuttal – Proponents:

- Kevan Combs, the developer of the project, said he had met with Bethel Ridge neighbors. He said the roads through Bethel Ridge and into the new development will be part of the NCDOT maintenance system. He said all he could do would be to reach out to DOT and make road repairs if needed. Combs said the development would have individual wells and septic systems, just like Bethel Ridge and nearby Pearman Estates does.

Simpson asked Combs what he would do if heavy equipment cracked the pavement in Bethel Ridge. Combs said he could not make repairs without contacting DOT to find out its preferred method of repair. He said he would try to get DOT to bring the road up to a higher standard. He said most heavy truck traffic is involved when property is being logged and the logs removed; he said there would be little of that since this property was primarily used as pasture.

Wilson asked Combs if he would be doing any draw-down tests to see if nearby wells are affected. Combs said no because the County does not require such a test for individual wells. He said he had reached out to Guilford County to find out the depth of wells on the abutting properties.

Gardner asked if a community well was not feasible. Combs said no, because the break-even point is about 50 homes.

Baker asked if soil samples had been taken, and Combs said yes. Baker asked if Combs was comfortable that he would get approximately the number of lots he was requesting, and Combs said yes, based on testing done by a private soil scientist.

Rebuttal – Opponents:

- None

Simpson closed the public hearing.

Simpson said water was a persistent cause of concern, and there had been anecdotal information about wells going dry in Oak Ridge. He said so far he had not seen anything that would be a basis for stopping development.

Leybourne said it was very unusual to have a development's entrance through another development. He asked Bruce to comment on the possible connection on the west side of the property. Bruce said initially he requested that a stub be provided that would eventually connect to the Mountain View subdivision. However, he said the topography was very steep and there was a creek that would have to be crossed, and NCDOT would not maintain a road that had fewer than four houses. He said rather than build a stub road that would not be maintained and would deteriorate, the option proposed would just create an open area that could provide a location for a connection to the adjoining property in the future. Leybourne asked what would happen if the property to the west was never developed, and Bruce said the area being discussed would just remain a part of the larger tract to the west with nothing built on it.

Bobbi Baker made a **motion** to recommend approval of Rezoning Case RZ-17-03 from AG to CU-RS-40 based on the fact that it meets the requirements of the development ordinance. **Tammy Gardner** seconded the motion, and it was passed unanimously (7-0).

C. REZONING CASE # RZ-17-02: RM to CU-TC-R. The property is located on the south side of Quiet Place, approximately 700 feet west of NC Highway 68, and consisting of the Village Woods development, in Oak Ridge Township. It is Guilford County Tax Parcels #0162897, 0162915, 0162916, 0162917, 0162918, 0162919, 0162920, and 0162921, and is comprised of approximately 24.5 acres. It is located in the Greensboro (GW-III) Watershed and Scenic Corridor Overlay Zone, and is owned by PJ Village Woods LLC.

Simpson stated that this rezoning request was simply to bring the property into conformity. Bruce read the property description for the record and presented the staff report, which is hereby incorporated by reference and made a part of the minutes. He explained that the property is zoned RM (Residential Multifamily), a type of zoning that was replaced by TC-R (Town Core-Residential) when the Land Use Plan update was adopted. He said the applicant could continue with the legally nonconforming zoning, but had decided to request the TC-R zoning. Bruce said the conditions being requested mirror those on the original approval. He said the RM zoning restricted the development to one unit per acre, and there was a condition that there would be a maximum of 21 units on the site. He said the updated Land Use Plan recommended up to two units per acre in TC-R zoning where appropriate, and he said the request was consistent with the Land Use Plan. He said there would be no change in terms of the impact on traffic, and NCDOT would again have to review the access for a driveway permit. He said the property owner had reached out to surrounding property owners regarding the request, and said staff recommended approval of the rezoning request.

Treacy asked if the rezoning is approved and the text amendment reviewed earlier in the meeting was not successful, then could the applicant only build a maximum of 21 attached townhouse units with a building separation of 20 feet; Bruce said yes.

Leybourne asked if the text amendment is approved, what would prevent single-family dwellings from being constructed in townhouse developments. Bruce said single-family residences have minimum lot sizes.

Stafford asked if a new development plan would be required for this development if the text amendment is approved, or if it would be automatically approved; Bruce said a new development plan would be required.

Gardner asked if the rezoning was just to bring the property into compliance, and Bruce said yes. He said they could continue to develop the property with the RM zoning, but sometimes it was difficult to get loans when a property has a nonconforming use. He said this was simply a cleaner and easier way to continue to develop the property.

Simpson opened the public hearing.

Proponents:

- Chuck Truby of CPT Engineering, who was representing the property owner, said when the development ordinance was changed, it forced the property owner to request the

rezoning because he could not continue to develop the property with a zoning that no longer exists.

Opponents:

- None.

Simpson closed the public hearing.

Ed Treacy made a **motion** to recommend approval of Rezoning Case RZ-17-02 from RM to TC-R. **Bobbi Baker** seconded the motion, and it was passed unanimously (7-0).

5. PUBLIC COMMENTS

Carl Leybourne said his job had required him to miss several Board meetings recently, and he offered to resign so an alternate could take his place. Simpson said Leybourne had added value to the Board, and that he would be missed, but said he understood if Leybourne's job required him to be away often. Baker said she respected what Leybourne was saying, but said she would personally like for him to remain on the Board. Others agreed, and Leybourne rescinded his offer.

6. ADJOURNMENT

Carl Leybourne made a **motion** to adjourn the meeting at 8:28 p.m. **Tammy Gardner** seconded the motion, and it was passed unanimously (7-0).