

Minutes of the  
New Hanover County Planning Board  
June 6, 2019

A regular meeting of the New Hanover County Planning Board was held on June 6, 2019 at 6:00 p.m. in the André Mallette Training Facility, 230 Government Center in Wilmington North Carolina.

Members Present

Thomas 'Jordy' Rawl, Chair  
Donna Girardot, Vice-Chair  
H. Allen Pope  
Ernest Olds  
Jeffrey B. Petroff  
Ted Shipley  
Paul Boney

Staff Present

Wayne Clark, Planning & Land Use Director  
Ken Vafier, Planning Manager  
Brad Schuler, Senior Planner  
Rebekah Roth, Senior Planner  
Ron Meredith, Current Planner  
Sharon Huffman, Deputy County Attorney

Chair Thomas 'Jordy' Rawl called the meeting to order at 6:01 p.m. Planning Manager Ken Vafier led the *Pledge of Allegiance*. Chair Rawl read the procedures for the meeting and that he was to be the planning board representative at the July 1<sup>st</sup> County Commissioners meeting.

1. **Public Hearing Rezoning & Special Use Permit Request (Z19-03) – Request by Cameron Management, on behalf of the property owner, Drypond Partners, LLC, to:**
  - A) **Rezoning approximately 25.94 acres of land located in the 4400 block of S. College Road, from R-15, Residential District, to (CUD) R-10, Conditional Use Residential District; and**
  - B) **Obtain a special use permit for a high density development consisting of 324 dwelling units within the area proposed to be rezoned.**

Board Chair Jordy Rawl asked Deputy County Attorney Sharon Huffman to explain the procedures to those in attendance.

Deputy County Attorney Sharon Huffman described that the first agenda item was separated into two parts, a rezoning request which would have a public hearing and if approved would be followed by a second public hearing for the special use request. Ms. Huffman then described to the audience the procedures and guidelines for presenting evidence during the legislative rezoning request.

Chair Rawl invited Senior Planner Brad Schuler to begin the staff presentation for the rezoning portion of the public meeting.

Mr. Schuler provided information pertaining to location, land classification, access, level of service and zoning; showed maps, aerials and photographs of the property and surrounding area along with an overview referred to in the staff report. He concluded by stating overall the application was generally consistent with the Comprehensive Plan's recommended density and mix of uses for the area.

Chair Rawl asked if there were any questions for staff before the applicant's presentation.

In response to Board questions, Mr. Schuler clarified that under the existing R-15 zoning the applicant could develop 65 dwelling units by right and with a high density special use permit the applicant would be allowed approximately 265 dwelling units. Mr. Schuler also stated the applicant was proposing 324 dwelling units which would be about 60 additional units in the associated special use permit request than would be allowed under a high density special use permit for R-15. Mr. Schuler stated that the Traffic Impact Analysis (TIA) had indicated that the daily trip count for the existing Whiskey Branch subdivision was 1,500 trips per day, 140 during the peak hours and the multifamily housing would create approximately 1,700 to 1,800 trips daily, 140 during the peak hours. Mr. Schuler clarified the neighboring subdivision of Fox Run Farm is zoned R-15 performance residential.

Chair Rawl opened the public hearing and recognized the applicant.

Matt Nichols, the attorney representing the applicant, introduced the development team and provided information including location, the site plan for the proposed project and the master plan showing the approved and future phases, consistency of the projects to adjacent development, and consistency to the Comprehensive Plan; and showed maps, and aerials. Mr. Nichols highlighted aspects of the project including pedestrian friendly streetscapes, on-street parking, open space, large setbacks from existing residential, and landscaping. Mr. Nichols stated the proposed phase was part of a larger master plan that transitioned from single family in the rear, to multifamily, to commercial along South College Road. He stated the master plan articulated the vision of the Comprehensive Plan as it would include a mixture of uses, multimodal transportation, mixture of housing type, and revitalize a commercial corridor. Mr. Nichols stated that the proposed project was consistent with adjacent residential and noted multifamily and townhome developments in the vicinity. Mr. Nichols wanted to point out that there were concerns from the community during the community meeting about interconnectivity. Mr. Nichols stated that applicant felt they addressed the concern with the addition of a gate at the Bullitt Lane entrance to be used for emergency only. Mr. Nichols invited Rynal Stephenson to speak about transportation and the traffic impact analysis.

Rynal Stephenson, PE, with Ramey Kemp and Associates, Inc. provided information about the transportation impact analysis. Mr. Stephenson addressed access, trip generation numbers; showed a map and charts.

Mr. Nichols continued the presentation with architectural renderings and additional information about the Whiskey Branch subdivision and the proposed project. Mr. Nichols stated they were using the land more efficiently and showed information comparing the proposed project with the existing Whiskey Branch development in terms of number of units, land area in acres, impervious surface, and trip counts. Mr. Nichols stated that while there was an increase in the number of units, there was a decrease in impervious surface. He also noted that while the weekly daily traffic value was slightly greater than the Whiskey Branch subdivision, the trips per unit was less. Mr. Nichols restated the project was consistent with the Comprehensive Plan and that the infrastructure was in place to allow for density they were seeking.

In response to the Board, Mr. Nichols confirmed that the only ingress and egress for the proposed project was off of South College Road. Mr. Stephenson stated that based on the traffic impact analysis, the proposed traffic improvements would accommodate the traffic needs. Mr. Stephenson stated that a light may be warranted if NCDOT deemed it necessary for safety purposes but was not recommended for the proposed project.

Chair Rawl closed the applicant's presentation and opened for speakers in opposition.

Johnathan Graves, a resident of and on the home owner's association board spoke in opposition. Mr. Graves stated the community was against multi-family housing after conducting a survey and wished to see single family homes. Mr. Graves commented on how the proposed project did not align with the New Hanover County strategic plan or the Comprehensive Plan. Mr. Graves stated his disapproval of recent development consisting of apartment complexes and mini-storage facilities. Mr. Graves stated that the development was a danger to the public's safety stating concerns about flooding and crime. Additionally, he had concerns that the project would not include affordable housing and that the existing infrastructure including power, water, and the road network was not adequate for the number of units proposed.

Nancy Downer Gainer, a resident of Fox Run Farm spoke in opposition of the project. Ms. Gainer stated that the proposed rezoning was inconsistent with the surrounding neighborhoods and was inconsistent with the General Residential place type. Ms. Gainer had concerns about traffic and the road infrastructure. Ms. Gainer expressed her displeasure of the role of the Planning Board and the public hearing process.

Phil Tiece a member of the home owner's association for the Crosswinds neighborhood spoke in opposition to the project. He noted that his community voted unanimously to oppose the project based on traffic related issues. Mr. Tiece stated concerns about connectivity and that it was inconsistent with the Comprehensive Plan.

Matt Ties spoke in opposition of the project stating that traffic in the area was terrible and unsafe. Mr. Ties stated that the area floods during typical rain events. Mr. Ties argued that the proposed project did not fit with the existing neighborhoods and it was his opinion that development had been occurring recklessly.

Chair Rawl stated that the 15 minutes for opponent's presentation had expired and noted there would be an additional 5-minute rebuttal. Chair Rawl closed the opposition portion and opened to applicant rebuttal.

In response to the concerns of the opposition, Mr. Nichols cited that Planning staff noted that the proposed project was consistent with the Comprehensive Plan and executes the vision stated in the Comprehensive Plan. He stated that the project was located along a major corridor and within the Community Mixed Use place type as depicted on the Future Land Use Map. He quoted the planning staff report which stated that the applicant's parcel was one of the last remaining large vacant tracts along a section of South College Road which was envisioned to include mixed use. Mr. Nichols stated that the proposed rezoning was part of a larger master plan where apartments were included in the original traffic impact analysis. He stated the proposed project supported the commercial aspect of the master plan which would take place at another phase. He argued that it was in the public's interest and furthers the goals of the Comprehensive Plan.

Mr. Nichols concluded his presentation and stated he and the development team were able to address any questions the Board had.

In response to Board questions Adam Grady with Hanover Design Services, stated that the amount of impervious surface would be less than if it were a single family development. Mr. Grady also stated that the project would need a storm water permit and that the design of the storm water system would meet the requirements of Local and State standards. He stated there would be no changes downstream and the design would have to meet the requirements for the adjacent creek designated "SA".

Chair Rawl opened to opposition rebuttal.

Mr. Triece asked the Board to do what was in the best interest of the public. Mr. Trice had concerns that quality development in the future could be hindered by politics if the planning board did not do what was in the best interest of the public.

Thomas Logan, a resident of Fox Run Farm spoke in opposition of the proposed project. He stated there was no justification to approve the rezoning allowing higher density. Mr. Logan was displeased stating that the applicant saw an opportunity to make a larger profit by increasing the density. He stated he would have been in favor of a plan that included lower density.

Lindsey Lay spoke in opposition of the project citing similar concerns as the other residents. Ms. Lay also commented on the price points of the proposed homes and stated she felt they were not going to be affordable. She stated the property should become a park or be held in a conservation status.

Chair Rawl asked Mr. Triece how his neighborhood accommodated storm water and wanted clarification on if their storm water ponds were annually maintained per State standards.

Mr. Triece stated that they had two storm water ponds and that they were maintained per State standards.

Chair Rawl closed the public hearing and opened the floor for Board discussion.

In response to Board questions, Senior Project Engineer Amy Kimes with the Wilmington Urban Area Metropolitan Planning Organization (WMPO) stated that the traffic impact analysis was still under review and had not been finalized and that the recommendation had not been reviewed by the WMPO. Ms. Kimes also stated that there were no near-future improvements slated for South College Road. She stated that the nearest start date for improvements on South College Road were to take place in years 2023-2025. Responding to Vice Chair Girardot's question, Ms. Kimes stated that trip generation numbers come from a national database based on existing research and studies. Ms. Kimes stated that the WMPO was still reviewing a number of design options on South College Road that would improve access and traffic.

In response to Board questions, Mr. Nichols clarified that infrastructure was in place to support the project as stated in the staff report. Mr. Nichols added that there had been general improvements to South College Road.

In response to Board questions, Mr. Stephenson stated that transportation improvements had occurred over recent years including U-turns and restricted access points. Mr. Stephenson noted these improvements had helped to reduce vehicle movements which improved efficiency of the existing road network and increased overall safety.

In response to Board questions, Josh Mihaly, RLA, clarified that larger buffers were incorporated next to existing adjacent residential property. He noted they designed the drive aisles in a way that would reduce headlights from shining into residences' backyards. Mr. Mihaly also stated that the power line easement to the south of the project is generally kept clear by Duke Energy. Mr. Mihaly stated that additional parking was to accommodate any overflow and for guests, and that on-street parking was included to be more vehicular friendly.

In response to Board questions, Wayne Clark, Planning Director for New Hanover County stated that the lines drawn on the Future Land Use Map were not hard like a zoning designation but general in nature and that the overall proposed plan, including the approved single family portion and future commercial phase, encompassed aspects consistent with the Comprehensive Plan. He added that the transition from commercial to multifamily to single family was a key element of the Comprehensive Plan.

In response to Board questions, Mr. Schuler stated that Fox Run Farm was developed under performance residential standards which do not have minimum lot sizes. He stated those lots were about 7,000 square feet whereas under conventional zoning standards the lots would have been 15,000 square feet.

Board member Paul Boney made a MOTION, SECONDED by Board member Ted Shipley to recommend to the Board of Commissioners to APPROVE the proposed rezoning to a R-10 Conditional Residential District. They found it to be CONSISTENT with the purposes and intent of the Comprehensive Plan because it would provide an orderly transition of uses from higher intensity areas located along the major roadways to lower intensity areas going from back to front. They also found approval of the rezoning request was REASONABLE and in the public interest because the proposed development supports opportunities for more affordable housing and for providing for a range of housing type.

Chair Rawl asked if there was any further discussion.

In response to a Board question, Mr. Schuler clarified that buffer yards would be based on the height of the building multiplied by 3.73.

After Board discussion, Chair Rawl stated there was a motion on the floor and called for a vote.

Upon vote, four in favor, three opposed. Motion to approve carried 4-3.

**B. Obtain a special use permit for a high density development consisting of 324 dwelling units within the area proposed to be rezoned.**

Chair Rawl clarified for that audience that for approval of the apartments the special use permit had to be approved. He stated there would be another 15 minutes for the opposition presentation. He then asked if anyone wished to speak they come forward to be sworn in as a witness since it was a quasi-judicial hearing.

Deputy County Attorney Sharon Huffman gave an overview of quasi-judicial hearings. She included the standards for the evidence which the Board could consider when making their recommendation. Ms. Huffman swore in witnesses.

Senior Planner Brad Schuler provided information pertaining to location, land classification, access, transportation, and zoning, showed maps, aerials, and photographs of the property and the surrounding area, and gave an overview of the proposed application as stated in the staff report. He explained the Board must make findings of fact in support of the four required special use permit conclusions in order to recommend approval.

Chair Rawl opened the public hearing and recognized the applicant.

Matt Nichols, the attorney representing the applicant, introduced the development team and explained that the proposed development meets the requirements for a Special Use Permit including the four findings of fact which they would demonstrate. He specifically stated that the project will not materially endanger the public health or safety if located where it is proposed. Mr. Nichols stated that they contend that the multifamily residential fits within the surrounding residential uses. Mr. Nichols asked Mr. Stephenson to present information pertaining to traffic and how it satisfied criteria for approval.

Rynal Stephenson, PE with Ramey Kemp and Associates, Inc. stated his qualifications as an expert in traffic engineering. Mr. Stephenson stated that the traffic impact analysis had been conducted and the design of the project limited driveway points and connections to South College Road resulting in fewer traffic movements and improving safety. He stated and pointed on a map the entrance and exit locations, pointed out a U-turn and stated that the traffic associated with the proposed project was 1,700 trips per day. He clarified that the bulk of traffic from the overall master plan was from the commercial aspect that has yet to be approved. He stated that based on the traffic impact analysis the project would provide accommodations that would not endanger the health, safety or welfare of the traveling public. Mr. Stephenson stated the proposed project satisfied the second criteria with approval from Technical Review Committee and requirements stated in the zoning ordinance. Mr. Stephenson stated that the project would not negatively impact the health and safety of the traveling public.

Mr. Nichols reiterated that the proposed project meets all the specifications of the NHC Zoning Ordinance and the Technical Review Committee.

Cal Morgan, a North Carolina certified real estate appraiser, described his methodology for analyzing the potential impact of the proposed development on the value of adjoining or abutting properties. This analysis included a review of other apartment developments in the Wilmington market, discussions with market participants active in the local residential market, and an analysis of the impact of a nearby apartment development on adjacent properties' initial lots costs, home sales, and appreciation values compared with lots in the same subdivision not abutting the development. He stated that he found no market data that suggested the proposed project would have any impact on the value of adjoining or abutting properties. In response to Board questions, he indicated that this finding of no impact on value was similar for other apartment developments he's analyzed in the Wilmington area over the last several years. He also indicated that data from his analysis did not indicate that the proposed development would affect appreciation or days on market.

Mr. Nichols stated that the proposed project based on the proximity to the Community Mixed Use place type and other factors considered in the previous hearing met the four criteria for the special use permit. He stated it was in general conformity with the Comprehensive Plan and referred to staff analysis on page 9 and the consistency recommendation on page 10 of the staff report. He concluded by stating that the proposal is allowed by special use permit in the R-10 zoning district that the Board recommended for approval in the previous hearing.

Responding to Board questions about privacy gates, Hill Rogers with Cameron Management stated that residences from Whiskey Branch would be able to access South College Road and that pedestrian traffic would be able to access the future commercial uses along South College Road. He clarified that the gates would be closed 24 hours a day but could be left open if the homeowner's association decided that's what they would like to do. Mr. Rogers clarified that the roads were private.

Chair Rawl closed the applicant's presentation and opened for speakers in opposition.

Ron Mays, a resident of Fox Run Farm and Board member for the homeowner's association, expressed concerns about the scale of the project, traffic, and the potential for flooding due to the amount of impervious surface.

Chair Rawl Chair closed the opposition portion and opened to applicant rebuttal.

In response to the opposition, Mr. Nichols stated that Bullitt Lane is only accessible for emergency vehicle traffic.

Clarifying for the Board, Mr. Rogers stated where the gates would be located for the Whiskey Branch subdivision and pointed to them on a map on a screen. He also clarified that there were no traffic calming devices in the Whiskey Branch subdivision and that the curvature of the road design reduces vehicle speed.

Chair Rawl opened to opposition rebuttal.

Mr. Mays rebutted that the scale was not appropriate siting concerns for the number of buildings and their height. He also stated his concern about the additional traffic that would be generated.

Chair Rawl closed opposition rebuttal and opened Board discussion.

After a brief discussion, Board member Paul Boney made a MOTION, SECONDED by Mr. Olds to recommend to the Board of Commissioners to APPROVE; as the Board found that the application for a special use permit met the required conclusions based on the findings of fact in the staff summary.

The motion to approve carried 7-0.

**2. Rezoning Request (Z19-07) – Requested by Parker & Associates on behalf of the property owner, Clearly Development, Inc., to rezone approximately 47.58 acres of land located near the 2500-2600 block of Castle Hayne Road, from R-15, Residential District, to R-10, Residential District.**

Current Planner Ron Meredith provided information pertaining to location, land classification, access, level of service and zoning; showed maps, aerials and photographs of the property and surrounding area along with an overview referred to in the staff report. He concluded by stating the property was within the General Residential place type and was generally consistent with the 2016 Comprehensive Plan because the proposed density was in line with the General Residential place type and would allow for affordable housing and convenient access to basic goods and services.

In response to a Board question, Mr. Meredith verified that the adjacent property was zoned R-15.

Chair Rawl opened the public hearing and recognized the applicant.

Lori Morris with Parker and Associates, representative of the applicant, gave a brief overview and stated that the intent of the rezoning was to provide for more affordable housing by adding an additional 26 extra lots. She stated that the lots were designed to fit in with the existing infrastructure which was already in place.

In response to Board questions, Ms. Morris stated there would not be any impacts to the surrounding properties and that the applicant was still investigating whether the storm water system would need to be upgraded if additional lots were added. She stated that the current system is oversized.

Chair Rawl closed the applicant's presentation and opened for speakers in opposition.

Jonathan Moore a resident of Chadwick Avenue spoke in opposition stated his concerns about traffic, stormwater, flooding, crime, and the negative impact to his property value. Mr. Moore stated that much of the site was wetland and that the site should be left R-15.

Chris Crowder a resident of Horne Place Drive spoke in opposition stated concerns about the negative impact to his property value and the cumulative traffic generated by other development in the area.

Patricia Morton a resident of Horne Place Drive spoke in opposition stated the zoning should remain R-15 and that she had concerns about traffic.

Chair Rawl closed the opposition portion and opened to applicant rebuttal.

In response to the opposition, Ms. Morris stated that currently the project's home prices range in the \$300,000s but the developer wanted to offer lower price point homes. Ms. Morris confirmed that there were apartments being built but not by her client, and that traffic improvements at the intersection with Castle Hayne Road were planned.

Hearing no questions from the Board Chair Rawl opened to opposition rebuttal.

Brent Johnson a resident of Horne Place Drive spoke in opposition, stating that the zoning should remain R-15. He had concerns about traffic and impervious surface. Mr. Johnston was also concerned Ms. Morris did not fully answer the Board's question in regards to the stormwater pond.

Chair Rawl closed the public hearing and opened to Board discussion.

In response to Board discussion the applicant decided to continue the item in order to clarify the justification for added density and address concerns about the ability for the project to meet storm water requirements. The Board stated the applicant could be heard at the next meeting.

Chair Rawl made a motion to continue the proposed rezoning to the July meeting.

The motion for a continuance carried 7-0.

**3. Rezoning Request (Z19-08) – Requested by Eastern Carolinas Commercial Real Estate, on behalf of the property owner, Ogden-New Hanover Volunteer Emergency Medical Service, Inc., to rezone approximately 8.43 acres of land located at 4450 and 4580 Carolina Beach Road, from R-15, Residential District, to B-2, Highway Business District.**

Senior Planner, Brad Schuler gave a brief overview of the request and provided information pertaining to location, land classification, access, level of service, and zoning; showed maps, aerials and photographs of the property and surrounding area along with an overview referred to in the staff report. He concluded by stating the property was within the Community Mixed Use and Conservation place types and was generally consistent with the 2016 Comprehensive Plan because the proposed request would provide the appropriate commercial services for a transitional community mixed use area and the pond would limit the portion of the property designated as Conservation.

In response to a Board question, Mr. Schuler explained any possible commercial development would be smaller than a big box retailer and the use would be dependent on parking standards, which was limited on the property.

Chair Rawl opened the public hearing and recognized the applicant.

John Hinnant, speaking on behalf of the applicant gave a background of the Emergency Medical Service use and regional emergency response. He stated that due to changes in emergency services the former tenant had moved out and the building was vacant. He continued by stating that due to the special use permit it was limited to emergency services. Mr. Hinnant stated the property owner wished to rezone the property in order to allow alternative uses so that the property could be marketed for something other than emergency services.

Responding to a Board question, Mr. Hinnant clarified that the applicant did not intend to rezone the area of the property with the pond or areas including high tension power lines and a creek.

Chair Rawl stated there were no speakers in opposition and asked the applicant if he wished to speak further.

Mr. Hinnant stated that the client's intentions with the proceeds from the sale would go towards establishing a scholarship for first responders.

Chair Rawl closed the public hearing and opened Board discussion.

Board member Ted Shipley made a MOTION, SECONDED by Vice Chair Girardot to recommend to the Board of Commissioners to APPROVE the rezoning to a B-2 district. They found it to be CONSISTENT with the purposes and intent of the Comprehensive Plan because it allowed for the types of commercial services appropriate for a transitional community mixed use and was reasonable and in the public's interest to provide an opportunity for business success and to provide services to the surrounding community.

The motion to approve carried 7-0.

**4. Special Use Permit Request (S19-01) – Request by E85 Transport, LLC, on behalf of the property owner, Jack Carlisle, to obtain a special use permit for a cemetery for family members on approximately 15.88 –acre parcel located at 8640 River Road.**

Planning Manager Ken Vafier provided a brief overview and provided information pertaining to location, land classification, zoning, and traffic impact. Maps, aerials and photographs of the property and surrounding area were presented. Mr. Vafier noted that the cemetery would be for family and loved ones and plots would not be sold to the general public. Mr. Vafier also noted that the cemetery would need a Coastal Area Management Act (CAMA) minor permit but was not subject to any NC Cemetery Commission regulations. He concluded that staff found it consistent with the purposes of the Comprehensive Plan. He explained the Board must make findings of fact in support of the four required special use permit conclusions in order to recommend approval.

In response to Board questions, Mr. Vafier stated that cemetery would not inhibit another principle use from being developed on the same site. He also stated that there was no evidence provided that the cemetery would impact the groundwater. Mr. Vafier clarified that family members as well as family friends may be buried there but the plots would not be sold to the general public. Mr. Vafier also clarified that the ingress and egress to the property was owned by the same individual.

Ben Rivenbark, the applicant speaking on behalf of the property owner Jack Carlisle, clarified that there was only one non family member who would be buried at the cemetery.

Chair Rawl stated there were no speakers in opposition, closed the public hearing and opened for Board discussion.

Board member Allen Pope made a MOTION, SECONDED by Vice Chair Girardot to recommend to the Board of Commissioners to APPROVE; as the Board found that the application for a special use permit met the required conclusions based on the findings of fact with conditions.

Conditions to be added to the District:

1. The applicant intends to employ funeral professionals for all interments and use modern techniques including sealed caskets, burial vaults, or grave liners to minimize potential environmental impacts.
2. Prohibit the sale of plots to the general public.

The motion to approve carried 7-0.

With no other business, Chair Rawl adjourned the meeting at 9:54 p.m.