

MINUTES
Planning Board Regular Meeting
E.S. Douglass Community Center, 1185 W. Pennsylvania Avenue
Thursday, July 18, 2024, at 6:00 PM

Chair Westbrook called the meeting to order at 6:00 PM.

Chair Diane Westbrook, Vice Chair Kim Wade, Andy Bleggi, Monica Harvey, Matthew Walden and Jennifer Garner were present.

Monica Harvey made a motion, which was seconded by Matthew Walden, to approve the Minutes of the June 20, 2024 regular meeting. The motion carried.

PUBLIC HEARING:

Z-03-24 Request for an RS-1 Conditional Zoning District located at 255 S. May Street

Katherine Rucker of Moore Montessori Community School, Inc. submitted a request to rezone 10.96 acres from Facilities, Resources, and Recreation (FRR) and Residential Single-Family (RS-3) to Residential Single-Family (RS-1) Conditional Zoning District to allow educational services and child daycare. The subject parcels are identified as PIN 858110360954 (PARID 00036865), PIN 858110362668 (PARID 00039178), PIN 858110362590 (PARID 00039168), PIN 858110364563 (PARID 00039769), PIN 858110364685 (PARID 00039770), PIN 858110365565 (PARID 39176), PIN 858110366266 (PARID 00991759), PIN 858110367340 (PARID 00031532) and PIN 858110367487 (PARID 94000217).

Andy Bleggi made a motion, which was seconded by Kim Wade, to open the public hearing. The motion carried.

Planner Mason Mattox stated that the request to rezone the parcels originated from a desire to include preschool, middle school and child daycare within the existing campus buildings, and provided an overview of staff report Z-03-24 accompanied by a PowerPoint presentation.

Mr. Mattox stated that discussions with the applicant had continued after the staff report had been transmitted to the Board, which resulted in the following voluntary conditions that the applicant and staff believe accurately reflect the applicant's intentions and appropriately mitigate reasonably foreseeable concerns:

1. Permitted uses are restricted to nursery or preschool educational services, elementary, middle or junior grade school educational services and child daycare and education-related accessory uses for children that are subordinate to the educational services and serve a purpose incidental to the educational services. Public fitness, recreational sports, gym,

athletic club and multi-purpose facilities which were included in the original condition were removed.

2. The shape and structure of the existing buildings shall not be altered. Any future exterior renovations shall be designed in the original character of the existing building.
3. The educational services and child daycare drop off and pick up times shall be offset with adjacent schools to avoid traffic congestion. Traffic patterns may be adjusted from time to time to accommodate unforeseen modifications to traffic patterns surrounding the site and to provide additional efficiency.
4. Current landscaping and lighting shall be retained. Any additional landscaping or lighting shall meet the Town's Unified Development Ordinance, landscaping code and lighting code requirements.
5. Site access shall remain at the current locations. No additional points of ingress or egress shall be provided.
6. The auditorium, gym and playfields shall not be permitted to be used all at the same time nor any combination thereof considering the high parking demand and insufficient parking available onsite and on street unless a parking plan to address such issues is created.

Mr. Mattox stated that Planning staff recommended approval of the rezoning with the noted conditions.

Ms. Mallette also responded that the application was presented at several Technical Review Committee meetings and the applicant had met with the Fire Marshal to resolve any concerns.

The applicant, Katherine Rucker, stated that Moore Montessori School has operated in its present location for the past three years and a \$2M renovation of Fox Hall was recently completed. Their partner organization, The Garden Montessori in Pinehurst, will provide a mother's morning out half-day educational program for toddlers up to 3 years of age.

Member Harvey asked how the expansion will impact the Boys & Girls Club activities and Ms. Rucker responded that the space utilized by the Boys & Girls Club will not be impacted.

Member Harvey asked if the half-day program will be public or private and Ms. Rucker responded that program will be private.

Member Harvey asked Ms. Rucker if she had any reservations or issues with the proposed conditions and Ms. Rucker responded that they felt great about the conditions.

Member Harvey asked if a parking plan would be managed internally or if it would require Town approval.

Ms. Mallette responded that the Town would have to approve any parking plan that is created in the event two or more spaces will be utilized at one time.

Member Bleggi inquired about the school's current capacity.

Ms. Rucker responded that they feel the capacity will be at or below 400 students. They ended last school year with 260 students and anticipate close to 300, but they are adding 8th grade so they are getting close to full capacity. The daycare would have a maximum of 24 children.

Chair Westbrook asked what other parking locations would be included in the parking plan.

Ms. Rucker responded that her intention was to have only one event at a time, but in the case of additional events they would arrange shared parking with a nearby property owner based on the anticipated number of attendees.

Andy Bleggi made a motion, which was seconded by Matthew Walden, to close the public hearing. The motion carried.

Monica Harvey made a motion, which was seconded by Andy Bleggi, that after reviewing the proposed map amendments to the Town of Southern Pines Zoning Map, and after considering the criteria for approval of map amendments found in UDO §2.17.9, the proposed amendments are consistent with the 2040 Comprehensive Plan for the reasons set forth in the amended Attachment 1 attached to the July 16, 2024 Planning Department email for file Z-03-24; and therefore, to recommend approval to the Town Council with the proposed conditions as written in the amended Attachment 1 with the following addition to Condition #6: "after such issue is created and approved by the Town." The motion carried by a 5-0 vote, with Jennifer Garner being absent.

PRELIMINARY FORUM:

PD-03-24 Preliminary Development Plan for Phases 2 & 3A of the Ace Hardware Planned Development

Mr. Bob Koontz, on behalf of Southern Pines Ace Land Company, LLC, has submitted a Planned Development District – Preliminary Development Plan application pursuant to UDO §2.18.5 for 32,650 SF of retail, office and warehouse space on 13.4 acres identified as PIN 857300963887 (PARID 00033603) and PIN 857300974451 (PARID 00033604). Per the Moore County tax record, the property owner is Southern Pines Ace Land Company, LLC.

Matthew Walden made a motion, which was seconded by Monica Harvey, to open the preliminary forum. The motion carried.

Planner James Broadwell stated that the Conceptual Development Plan and the Preliminary Development Plan for Phase 1 were approved in 2022. Phase 2 of the Planned Development will include retail, restaurant and office uses and Phase 3A will include retail, office and warehouse uses. Mr. Broadwell continued with an overview of the application and staff report PD-03-24 accompanied by a PowerPoint presentation.

Member Garner joined the meeting.

Mr. Broadwell stated that plans for the open space between the Phase 2 buildings are somewhat open ended so a lessee could potentially make that space an extension of the restaurant and have a lot of flexibility regarding its use. He stated that the lack of a sidewalk on the south side of Capital Drive was also a concern.

Mr. Broadwell stated that Planning staff recommended approval of the application with conditions regarding the usable open space between the Phase 2 buildings and the addition of a sidewalk on the south side of Capital Drive.

Bill Bryan, attorney for the applicants, stated that they would be presenting only the technical aspects of the project and the Board could ask questions and identify issues that the Town Council may want to pursue during the public hearing.

Paul Saathoff, present on behalf of the applicants, stated that Phases 2 and 3A of the Planned Development will be a continuation of the shopping center that was established in Phase 1. Phase 2 will include 12,650 total SF of retail, restaurant and office space in two buildings. Open space between the two buildings is proposed and is intended to be complimentary to the future businesses and will be an open lawn with seating as a gathering space for public use.

Member Bleggi asked if the applicant was amenable to defining the use of the open space prior to the Town Council hearing.

Mr. Saathoff responded that it is currently designated as open lawn seating.

Member Harvey inquired about the greenway trail connection.

Mr. Saathoff responded that the greenway trail will be on the south side of the site and connect to the sidewalk within the development and also to the SCC horticultural gardens.

Chair Westbrook asked Mr. Saathoff when the trail would be completed.

Randy Saunders responded that in order to construct the greenway trail the way the Town wants it to be built, they would have to remove 72 additional trees, which they want to avoid. They want to design a winding path that will not require the removal of many trees. They have a

design for the path and where it is going to go and they just waiting on guidance from the Town regarding the design of the path so they can determine what type of construction equipment will be required.

Member Bleggi expressed concerns regarding a warehouse being developed at the traffic circle and it being within the flight path for the airport, and also the close proximity of an ABC store to nearby schools.

Mr. Saunders responded that ABC's warehouse is currently downtown and they want to incorporate another store and some warehousing and meeting space. It will be aesthetically pleasing, it is way under any flight path height requirements and the ABC Commission wanted the warehouse to be attached to one of their stores.

Member Wade inquired about the findings from the traffic analysis.

Mr. Saunders responded that they have made improvements to Hwy 22 that were required by the traffic study as well as additional voluntary improvements.

Member Harvey inquired about comments received from the airport.

Mr. Bryan stated that as of that afternoon they had entered into a noise and vibration easement agreement with the airport which basically states that the tenants will not sue the airport over the noise, vibration and pollution that the airport produces and the applicant will not build any structure taller than the FAA allows, which will be recorded in Moore County Register of Deeds. Mr. Bryan stated that all of the issues with the airport had been addressed and the airport was in support of the request.

Mr. Saunders stated he and Rick Clutier, the Airport Director, have worked well together.

Member Harvey inquired about potential future plans for more commercial flights coming in and out of the airport and asked if the proposed development would have any impact on those plans.

Rick Clutier responded that question was not related to the subject development, but that an acceptable agreement had been reached that will meet FAA requirements.

Member Harvey asked if it was not related because it will not impact any future plans for the airport and Mr. Clutier responded that you never know what the future is going to hold, but at this time it is an acceptable agreement.

Mr. Saathoff stated that they have conducted turning radius studies and have confirmed that the design will accommodate the largest fire truck.

Mr. Bleggi inquired about parking.

Mr. Saathoff responded that the proposed parking is slightly over the minimum requirement for Phase 2 by 14 spaces and by 2 spaces in Phase 3A to accommodate potential additional restaurant space. It is also the intention to share parking with the other phases.

Mr. Saathoff stated that they are maintaining a tabulation of required open space and will meet the overall open space requirement, including usable, with the addition of Phases 2 and 3A. The property is within a High-Quality Watershed and a Watershed Protection Permit was approved with the CDP and they will be at 59% impervious surface with the development of Phases 2 and 3A. Utilities were installed along Capital Drive. Lighting and signage will meet UDO standards. It is anticipated that the buildings will meet the design and material requirements of the UDO.

Mr. Saunders stated that the buildings will have the same architecture as the existing Ace Provisions building.

Chair Westbrook inquired about sidewalks and Mr. Saathoff responded that there will be a sidewalk on the north side of Capital Drive that will connect to Tyler's Ridge, which is consistent with the overall development.

Andy Bleggi made a motion, which was seconded by Matthew Walden, to close the preliminary forum. The motion carried.

Monica Harvey made a motion, which was seconded by Matthew Walden, to adopt the following for transmission to the Town Council as a result of the July 18, 2024 preliminary forum on application PD-03-24, Southern Pines Ace Hardware:

The information presented at the forum indicated that the following issues be considered in applying the criteria for a PDP to application PD-03-24:

1. Incorporate by reference Planning staff's concerns set forth on page 9 of the staff report, with the exception that the letter from the Moore County Airport replace the Airport's previous objections.
2. A concern regarding signage for the ABC store with respect to its proximity to schools and a daycare.

The motion carried by a 6-0 vote.

PUBLIC HEARING:

OA-03-24 Landscaping and Tree Protection Amendments to the UDO

The Town of Southern Pines Planning Department proposed to amend the Unified Development Ordinance (UDO) with a variety of text amendments primarily related to tree protection procedures, open space standards and the landscaping code. The proposed amendments are an implementation of Policies 3.2, 3.8, 4.1, 4.45, 4.5, 4.7, 4.9 and 4.10 of the Town's 2040 Comprehensive Plan adopted in September 2023.

Matthew Walden made a motion, which was seconded by Jennifer Garner, to open the public hearing. The motion carried.

Senior Planner Alaina Mallette stated that the Comprehensive Plan calls for tree protection to be one of the top 10 priorities for the Town and provided an overview of the proposed text amendments accompanied by a PowerPoint presentation.

There are relief measures available to applicants on sites where tree protection does not make sense for whatever reason, whether because of typography, the size of the site, etc. and those situations are listed in the Landscaping and Open Space standards. Some Administrative Relief is permitted and there is also legislative flexibility in terms of a Conditional Zoning District if the open space standard needs to be reduced for some reason. The Planned Development process also allows for an applicant to request lower standards and through a quasi-judicial process with the Board of Adjustment they can request a variance if a hardship on the site can be proven.

Member Bleggi inquired about the penalty for noncompliance.

Ms. Mallette responded that NCGS 160D-921 speaks to the ability to have a consequence in terms of time. If a development is in one of the zones or an overlay district that requires a tree protection plan and the site is cleared before having an approved tree protection plan, the penalty is a three-year delay in development of the property.

Member Bleggi stated that there should alternatives to delaying a project, such as a fine or a requirement to plant more trees in a different area.

Ms. Mallette responded that the Comprehensive Plan calls for a payment-in-lieu program. They looked into that option as an alternative and that would require a third party who is able to quantify the value of the land as open space and establish a dollar amount for the site.

Member Bleggi stated that he was in favor of the plan but it passes the burden on to the developer and there should be some type of reward for compliance.

Member Bleggi asked if development in the 100-year floodplain has ever been an issue for the Town.

Ms. Mallette responded that building in the floodplain was not being prohibited. It is one of the priority areas for protection after natural areas that include endangered species and specimen trees.

Member Bleggi stated that there are sites that need to be cleared to install infrastructure. The fine could be large enough to cover the cost of replanting the trees.

Member Harvey asked if staff had looked at what has worked in other jurisdictions.

Ms. Mallette responded that they had looked at Fuquay-Varina, Cary, Wake County, Charlotte and some communities in Georgia, and there is special legislation that is more restrictive but Southern Pines has not included that legislation.

Member Bleggi stated that local banks are going to be unwilling to finance new development with the risk of a 3-year penalty.

Discussion among the Board members continued regarding alternatives to the 3-year penalty.

Chris Dunn, 305 Stornaway Drive, stated he and Ray Owen were not on the tree protection committee as representatives of the Arts Council.

Mr. Dunn inquired about the penalty for using exterior building materials that have not been approved.

Ms. Mallette responded that a Certificate of Occupancy would not be issued until the building was brought into compliance with the approved Architectural Compliance Permit.

Ray Owen, 460 Country Club Drive, stated that he had worked with UNC Greensboro in the initial studies of the old growth longleaf pines in Weymouth Woods. The oldest longleaf pine trees are in this area and it is what the Town is named for them. The trees are cavity trees for the rock-cockaded woodpeckers, which is a federally endangered species and locations of the trees are GPS mapped.

Member Bleggi asked Mr. Owen about cavity trees that have been removed and if there are designated areas where trees should be replanted.

Mr. Owen responded that there are fines for removing cavity trees and mitigation is a very valuable tool.

Member Garner asked if red-cockaded woodpecker trees on Morganton Road were removed she would love to see that pursued as that is against federal law. She asked if other endangered species in addition to the red-cockaded woodpecker had been displaced due to development along Morganton Road.

Mr. Owen responded that studies were conducted in the 1980's and it is pretty phenomenal the number of different species that were there.

Vince Zucchini, 24 LaQuinta Lane, Pinehurst, stated that the soil conditions are what need to be protected. It is very difficult to grow a longleaf pine forest once the ground has been compromised.

Jeff Grey, Town Arborist, stated that a red-cockaded habitat tree that is removed will take 85 years to grow back.

Member Harvey inquired about the federal law regarding the penalty for removal of a red-cockaded habitat tree.

Ms. Mallette responded that she could not speak to that because the Town does not regulate the Endangered Species Act.

Member Bleggi stated that the penalty is so significant that the land is worthless to the developer.

Monica Harvey made a motion, which was seconded by Andy Bleggi to close the public hearing. The motion carried.

Board discussion ensued.

Jennifer Garner made a motion, which was seconded by Andy Bleggi, to reopen the public hearing. The motion carried.

Monica Harvey made a motion, which was seconded by Jennifer Garner, to continue the public hearing to the September 19, 2024 regular meeting to allow staff time to address the following:

- Consider rewards, payment-in-lieu or alternative punitive measures to the three-year project pause;
- Concerns regarding language of 4.7 and consider loopholes for getting around punitive measures
- Consider rewards for adding needed trees to certain areas
- Concerns over the 100-year floodplain – it is prohibitive to development or are there alternatives to allow crossing?

- Mitigation alternatives for partial clearing
- Consider the town's ability to request outside expertise regarding the affect of tree removal for review and/or mitigation
- Other issues that may arise during discussions

The motion carried by a vote of 6-0.

UNFINISHED BUSINESS:

No unfinished business was discussed.

NEW BUSINESS:

Ms. Mallette asked the Board if they were agreeable to moving the deadline for Planning Board packets to the Friday prior to the regular meeting and the members were in agreement.

Andy Bleggi made a motion, which was seconded by Matthew Walden to adjourn the meeting.
The motion carried.

The meeting adjourned at 9:10 PM.

An audio recording of the meeting and any related PowerPoint presentations are available upon request.

Respectfully submitted:

Cindy Williams
Secretary to the Planning Board