

MINUTES
Planning Board Regular Meeting
E.S. Douglass Community Center, 1185 W. Pennsylvania Avenue
Thursday, December 15, 2022 at 6:00 PM

Chairman Carroll called the meeting to order at 6:00 PM.

Chair Gary Carroll, Vice Chair Diane Westbrook, Kim Wade, Andy Bleggi and Matthew Walden were present.

Diane Westbrook made a motion, which was seconded by Andy Bleggi, to approve the Minutes of the November 17, 2022 regular meeting. The motion carried.

Andy Bleggi made a motion, which was seconded by Kim Wade, to adopt the 2023 Planning Board meeting schedule as presented. The motion carried.

PRELIMINARY FORUM:

PD-12-22 Preliminary Development Plan for Phases 3B and 4 of the Caropines Planned Development

Mr. Bob Koontz, on behalf of Caropine Ventures, LLC and 71st Partners, LLC submitted an application for a Planned Development - Preliminary Development Plan and Major Subdivision Preliminary Plat to develop 77 residential units on portions of the parcels identified as PIN: 858300789195 (PARID: 00031457) and PIN: 858400613908 (PARID: 20050760) owned by Caropines Ventures, LLC; PIN: 858419511440 (PARID: 96000281); PIN: 858419508871 (PARID: 96000280); and PIN: 858300592330 (PARID: 96000278) owned by 71st Partners, LLC.

Andy Bleggi made a motion, which was seconded by Diane Westbrook, to open the preliminary forum. The motion carried.

B.J. Grieve stated that the request was to develop 12 detached single-family lots with an 8,000 SF minimum lot size and 11 slightly smaller cottage lots with a 5,000 SF minimum lot size as Phase 3B; and 54 single-family attached lots with a 2,000 SF per unit minimum lot size as Phase 4. Approval of these 77 lots will bring the total number of lots to 227 of the 550 residential units that were approved under the Conceptual Development Plan that was approved in 2018. A total of 102 lots existed prior to approval of the CDP.

Mr. Grieve stated that staff would prefer that the statement regarding administrative flexibility due to market conditions or engineering design constraints be removed from sheet L-1.0 as administrative amendments are address in UDO §2.18.7(H).

NCDOT reviewed the new TIA phasing study and provided revised comments dated November 17, 2022 regarding the offsite improvements that will be required. The Town Engineer agreed with transportation improvements 1, 2 and 3 listed in the letter as long as they are completed prior to the approval of any plat or combination of current or previously approved plats associated with this application in which the total number of platted lots exceeds 50 lots. The Town has been very clear with the applicants that the Town does not want any conditions tied to certificates of occupancy and therefore the Town is not going to approve a final plat that includes the unit that triggers the infrastructure improvements.

The approved CDP states that Avenue of the Carolinas would be fully paved within three years from the date of approval of a Preliminary Development Plan to construct the first phase of the CDP, which was March 25, 2022. The road has not been completed and therefore it does not currently comply with the CDP. The applicants expressed concern, which the Town agreed was a reasonable concern, that the road may have to be relocated after it was built due to utility design issues that arise during approval of Phases 3B and 4.

The narrative submitted with the current PDP application states that the current emergency and construction access road will be fully paved to the secondary access entrance on Airport Road but the timeline was not specified. Staff requested as a condition of approval that the first phase developed pursuant to this PDP include the engineering plans for Avenue of the Carolinas and that no final plat be approved for either Phase 3B or 4 until the entirety of Avenue of the Carolinas is paved and completed and approved by the Town Engineer and that completion of the entirety of Avenue of the Carolinas shall not be allowed to be further delayed as part of a Subdivision Performance Guarantee because it was actually required to have been completed in March 2022.

The applicants have worked with the Town Engineer James Michel to create a sewer arrangement to serve these lots and he has stated that based on what he saw at his meeting with the applicants, he believes it is feasible that they will be able to serve the current design of lots as modified with a gravity sewer line. However, staff requests as a condition of approval that no site plan be approved without an acceptable gravity sewer system design.

The applicants have stated in their application that during the full construction engineering design phases a letter will be obtained from US Fish & Wildlife to clear the areas for Phases 3B and 4. Staff requests that this be a condition of approval.

The CDP includes a list of amenities that will be provided. To staff's knowledge, no additional amenities have been provided and therefore a condition of approval for the Board's consideration is that the amenities will be provided pursuant to the CDP.

Paul Saathoff of Koontz Jones Design, representing the applicant, stated that Phase 3B is located in Land Use Area A and Phase 4 is located in Land Use Area B. The number of lots in Phase 3B

has been reduced to 23 to make the gravity sewer work and also due to grading issues. Alleyways behind the lots on the west side of Avenue of the Carolinas are proposed. Those lots will be rear loading with garages in the rear due to grading concerns to prevent steep driveways. Phase 4 will consist of 52 – not 54 – townhome lots. There is a stipulation in the approved CDP that lots cannot front Avenue of the Carolinas north of the existing wetlands bridge. Pursuant to the CDP, completion of Avenue of the Carolinas was to occur before March 25, 2022. They have been working with the Town on sewer alignment. They could not pave the existing roadway without Phases 3B and 4 being approved. The developer wants to get paving of that road underway. With the first of these two phases engineering plans will be provided showing completion of Avenue of the Carolinas to Airport Road, which is currently a gravel emergency access. This will be completed prior to final plat approval for either Phase 3B or 4.

The left and right turn lanes and tapers that need to be installed at Site Drive 1, which is the secondary entrance into the development, need to occur prior to final plat approval of 50 additional lots. The phasing study also stated that no new platted lots could be added to the existing Avenue of the Carolinas, which is the old portion, without the installation of left and right turn lanes at the existing entrance. A westbound slip lane at Airport Road at the roundabout will be required before plat approval exceeding 225 homes. A total of 66 lots have been platted since the CDP was approved and 33 of those lots have been developed.

The community clubhouse, which includes a gym, and a swimming pool have been constructed and are in use. A splash pad is also being added at the pool. Golf is located throughout the community. The practice range is open and being maintained and there is a three-hole practice course that is open to residents. Open play fields on some of the old golf holes, particularly holes 1, 18 and 9 which are near the clubhouse and are adjacent to Phase 3B. A greenway trail connection has been made and open space on some of the existing golf holes still remain. They are working on a community garden that will be located near the secondary entrance. Phases 3B and 4 meet all of the standards of the CDP and the developer is committed to completing Avenue of the Carolinas with the approval of Phases 3B and 4 and NCDOT improvements will also be made.

Andy Bleggi asked Mr. Saathoff if they agreed to the conditions that staff proposed.

Mr. Saathoff responded that they feel that they comply with the requirement to provide amenities.

Mr. Grieve asked if the applicant was amenable to providing the community garden and splash pad before approval of the final plat of the second of the two phases.

Mr. Saathoff responded that they would give that consideration.

Mr. Saathoff stated that only one traffic improvement is required with approval of the 51st lot.

Mr. Bleggi asked if the applicants wanted to propose a new date for completion of the road.

Mr. Saathoff responded that the developer wants to get it done and they have been working with Engineering and Planning staff.

Ms. Westbrook asked who is responsible for having the road completed.

Mr. Saathoff responded that the road will be completed before final plat approval for Phase 3B or 4.

Mr. Grieve stated that the applicants have not built the road they said they were going to build and therefore are currently in violation and they have not provided the amenities they said would be provided.

Chair Carroll asked if a finite date for the paving of Avenue of the Carolinas could be set and said he assumed that that the turn lanes on Airport Road would be installed at the same time.

Mr. Grieve responded that NCDOT has certain requirements.

Chair Carroll said he would like to have a clear track for the completion of Avenue of the Carolinas and he would like for that to include the turn lanes.

Mr. Grieve said staff's recommendation is to default to NCDOT's triggers for improvements as stated in the letter that has been provided.

Chair Carroll recalled that several possible amenities were discussed at the time of CDP approval and stated that he would like to have something definite.

Attorney John Scarbrough, representing the applicant, stated that they are looking at 77 proposed dwelling units. If the Town places a condition on permit approval, in other words that they have to provide certain amenities in order to get permit approval, the NC Supreme Court has said that demand for amenities has to be proportional to the impact of 77 dwelling units. He wants it to be understood that there is a limit, and it is the Town's burden to show that the demand meets the proportionality test. As for the road not being paved by March 25, 2022, he appreciates Mr. Grieve initially acknowledging their concern with not wanting to install the road and tear it back up is reasonable. The note in the staff report that the entire project is noncompliant with zoning – that is not before this Board and that will not be before the Town Council. What is before the Town Council and this Board is whether this application is consistent with the CDP – not if there an underlying violation to the CDP.

Ms. Westbrook asked what amenities the applicants are committed to ultimately completing.

Mr. Scarbrough responded that is a condition that will need to be worked out prior to going before the Town Council so the commitments are specific and not overly burdensome when you are looking at 77 dwelling units.

Mr. Bleggi stated that it would be nice to know what amenities they are going to commit to and which ones they are not going to commit to and a date certain. It is imperative to establish a date that the applicants are willing to commit to for the completion of Avenue of the Carolinas or they will come back to the Town and request an extension.

Perry Shelly of Caropine Ventures asked if the two concerns were amenities and the paving of the road.

Ms. Westbrook responded that they were concerned about everything that was listed in the report.

Mr. Shelly stated that they are going to pave the road but they cannot pave the road until the PDP is approved and they can then do the engineering. They are committed to building the road. They are fine with no more lots being platted until the road is completed and the turn lanes are installed.

Mr. Grieve said Mr. Saathoff mentioned the conditions regarding amenities and completion of the road.

Mr. Shelly acknowledge that he was fine with the staff's recommendation regarding the road.

Mr. Grieve said the PDP did not address amenities at all.

Mr. Shelly stated that he was confused about the amenities. They built a \$1.8M clubhouse for 33 homes and they have reserved more greenspace than is required. They are maintaining three to four golf holes and the driving range which they do not have to do. In his mind they are committed up front to tremendous amenities. They have a walking trail from one end of the development to the other. They have already invested millions and are maintaining golf holes that are hardly being played. He is not clear about what they need to be doing.

Mr. Grieve stated that Mr. Shelly e needed to explain what has been provided in the PDP application and provide a date of completion for anything listed in the presentation as "Coming Soon."

Mr. Shelly responded that they have provided a clubhouse with fitness equipment and a swimming pool and they host monthly events for the community and he is not sure what else they need to provide.

Mr. Bleggi said Mr. Grieve was asking them to list the amenities that they have already provided and any other amenities that may be added.

Chair Carroll asked that staff's request that the statement regarding administrative flexibility be removed from sheet L-1.0 of the application be addressed.

Mr. Saathoff responded that the statement would be removed.

Ms. Linda Holmes of 695 Ave of the Carolinas, stated that the homeowners are concerned that the proposed lot sizes for a couple of the lots in Phase 4 do not meet the minimum lot size requirement; the turn lanes on Airport Road have not been completed, creating a safety issue; the remainder of Avenue of the Carolinas has not been built; the master sewer plan that was supposed to have been presented on October 31, 2022 has not been provided; and they would like for the Planning Board to address maintenance. They are concerned about the safety of children with these ponds. There is a clubhouse and pool, putting and driving ranges and three holes of golf and some sidewalks in the trail system. However, currently there is no contiguous sidewalk to the clubhouse or trail without having to walk or drive a golf cart in the road. The CDP states that "Recreational opportunities for the residents of The Carolina may include the following: golf short course, soccer and/or baseball play fields, parks and community gathering areas, performance/movie outdoor amphitheater, pickle ball courts, walking trails and sidewalk network, open play areas, community garden and other potential active and passive amenity areas." None of this has happened and they do not see any amenity locations depicted on the site plan or the preliminary plat for Phases 3B and 4. They only have the pool and clubhouse and events are not held monthly.

Chair Carroll asked Ms. Holmes if there is an HOA and Ms. Holmes responded that only the first phase has an HOA.

Ms. Holmes said a majority of homeowners have had to install French drains because of the water runoff.

Mr. Bleggi asked if there is a reason why the other phases do not have an HOA and Ms. Holmes responded that a certain percentage of homes need to be built.

Mr. Bleggi asked if the homeowners in the first phase pay any type of dues or fees and Ms. Holmes responded that they all pay dues and fees.

Mr. Shelly stated that they have an onsite manager.

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

ACTION OF THE BOARD:

Andy Bleggi made a motion, which was seconded by Diane Westbrook, to adopt the following for transmission to the Town Council as a result of the December 15, 2022 preliminary forum on application PD-12-22 for Caropines Phases 3B and 4 Preliminary Development Plan:

The information presented at the forum indicated the following issues with the PDP application PD-12-22:

1. As stated in the staff report with the addition of a definitive date for completion of Avenue of the Carolinas whether or not Phase 3B or 4 is completed with staff revising any recommendations based on what was heard during the preliminary forum.

The motion carried.

PUBLIC HEARING:

OA-04-22 Text Amendments to the Unified Development Ordinance; Petitioner: Town of Southern Pines Planning Department

1. At the request of the Town Attorney, delete the general zoning exemption process in UDO §2.11 and delete some of the subsections of UDO §8.5.2 that relate to certain types of zoning exemptions because there is no “exemption” process set forth in North Carolina General Statute and move UDO §8.5.2(H) related to Town-initiated development approval requests to UDO §2.5.8, subsection (C) where it makes more sense.
2. Amend UDO 2.18.3(C) to clarify that amendments to an approved Conceptual Development Plan (CDP) require the signature of all landowners within the Planned Development (PD) district because Planned Developments are development projects with many common design elements and individual property owners should not be able to modify those design elements later without the knowledge of others who previously bought into the project. Amend UDO §2.18.4(I)(4) to clarify that approval of a CDP does, in fact, provide a vesting of certain development rights because it does under North Carolina laws governing vested rights. Amend UDO §2.18.7 by creating a new section 2.18.8 that addresses minor vs. major amendments to approved Conceptual Development Plans and Preliminary Development Plans. Amend UDO §4.7 to clarify that unique fencing standards may be included in a Planned Development because fences are one element of design that may be unique in a Planned Development project.
3. Remove one vestige reference to “Sketch Plats” remaining in UDO §2.20.4(G)(1) because the Sketch Plat process was previously removed by Ordinance #1919 on July 1, 2021.

4. Clarify requirements for establishing sign standards and creating Unified Sign Plans in Planned Development districts in UDO §3.5.14(I) & (J) because this section has always been confusing to sign permit applicants and is extraordinarily difficult for Planning staff to administer and enforce.
5. Amend UDO §4.10.4(E)(3) to allow the use of metal awnings in districts other than the CB and DTO districts because in most zones other than CB and DTO districts the distances from which awnings on commercial structures are viewed make metal an aesthetically acceptable and more durable alternative to canvas or other flexible materials.
6. Remove the requirement in UDO §5.9.3 for zoning permits for operators of food trucks when operating in an approved Food Truck Campus because the operator of the Food Truck Campus is responsible for ensuring all food trucks within the campus follow the operating requirements of the campus. Requiring a Special Use Permit and a site plan review to verify compliance with food truck operating requirements then also requiring up to six additional zoning permits for each food truck within the campus is just a lot for everyone and does not result in making anything better.
7. Amend UDO §8.14.6(D) to clarify that when hearing “questions involving interpretations” by the Planning Director or other member of the Town’s administration, the Board of Adjustment does not render recommendations in writing to the Town Council, they make a quasi-judicial decision per State Statute that may be appealed to Superior Court.
8. Amend UDO §8.16.1(B) and (F) to be consistent with State Statute regarding membership eligibility for the Historic District Commission because presently (F) can be interpreted to allow those who move outside Southern Pines to continue serving until a replacement is appointed and the actual requirement from State Statute fits better under subsection (B) than (F).
9. Add a definition of the word “Neighborhood” to UDO §9.3 because several sections of the UDO (such as §1.2.2(A) & (B), §1.8.4(B), §2.15, §2.17.9, §2.17.10, §2.18.4, §2.18.5, §2.21.6, §2.22.6, etc.) reference the word “neighborhood” but there is presently no definition of the word in Chapter 9 of the UDO.

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

Mr. Grieve provided an overview of the proposed amendments.

A brief discussion ensued.

PLANNING BOARD ACTION:

Mr. Walden made a motion that after reviewing the proposed text amendments to the UDO and considering the criteria for approval of text amendments to the UDO found in UDO §2.17.10:

1. The proposed amendments are consistent with the Comprehensive Long-Range Plan for the reasons set forth in Attachment A of staff report OA-04-22.

I further move that the following other matter was considered by the Planning Board and shall be added to Attachment A by Town staff as part of the Planning Board's written recommendation to the Town Council:

1. With regard to text amendment no. 1 regarding exemptions, that staff work with interested parties on a text amendment to allow murals as a public art program.

and therefore, to recommend approval of OA-04-22 to the Town Council. The motion was seconded by Andy Bleggi and the motion carried.

UNFINISHED BUSINESS:

No unfinished business was discussed.

NEW BUSINESS:

Mr. Grieve stated that a Special Meeting was scheduled for January 4, 2023, which would be a summit with the Town Council.

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

The meeting adjourned at 8:00 PM.

Respectfully submitted:

Cindy Williams
Secretary to the Planning Board