

MINUTES
Town of Southern Pines Planning Board Regular Meeting
Douglass Community Center, 1185 W. Pennsylvania Avenue
February 20, 2020 at 6:00 PM

The regular meeting of the Town of Southern Pines Planning Board was held on Thursday, February 20, 2020, at 6:00 PM at the Douglass Community Center, 1185 W. Pennsylvania Avenue, Southern Pines, North Carolina.

Board members present: Chairman Gary Carroll, Benjamin Greene, Kim Wade and Cooper Carter.

Board members absent: Vice Chairperson Diane Westbrook and Lemuel Dowdy.

Town staff present: B.J. Grieve, Planning Director, Suzy Russell, Planner, Lauren Long, Planner, and Cindy Williams, Secretary to the Planning Board.

Chairman Carroll called the meeting to order at 6:10 PM.

APPROVAL OF MINUTES:

Benjamin Greene made a **motion**, which was seconded by Cooper Carter, to approve the Minutes of the December 19, 2019 and January 23, 2020 regular meetings. **The motion carried unanimously.**

PUBLIC HEARINGS:

1. **CU-01-20 Amendment to an Existing Conditional Use Permit for Special Home Events; 790 E. Connecticut Avenue; Applicant: Cardon Properties, LLC by Donald and Carolyn Naysmith**

Mr. and Mrs. Donald Naysmith, on behalf of Cardon Properties, LLC, submitted a request to amend Conditional Use Permit CU-01-18 with regard to the conditions of approval for Special Home Events to allow the use of a recently discovered existing driveway at the eastern end of the property for emergency vehicles, the use of tents that are no larger than 1,500 square feet on the rear walled terrace attached to the house, and to create a gravel parking area instead of the required paved surface. The subject parcel is zoned RS-3 (Residential Single-Family) and is identified as follows: PIN: 858111655620 (PARID: 95000294). The property owner is listed as Cardon Properties, LLC.

Chairman Carroll confirmed that there were no conflicts of interest among the members of the Board.

OATH OF TESTIMONY:

The oath was administered to those planning to speak during the hearing.

STAFF REPORT – Suzy Russell:

Ms. Russell entered staff report CU-01-20 into the record as Exhibit A and stated that the applicants were requesting an amendment to Conditional Use Permit CU-01-18 which was approved by the Town Council on April 23, 2018 for a Bed and Breakfast Inn and Special Home Events. The Bed and Breakfast Inn is now fully operational and the applicant would like to implement Special Home Events at this time. The amendments they are seeking relate to three of the four conditions of approval of CU-01-18 with regard to Special Home Events.

The first condition was landscape screening and the applicants have satisfied that condition.

The second condition required the applicants to install a parking area for Special Home Events on the eastern side of the property and they are adhering to that condition. That condition allowed for a variation in the design of the parking area and the applicants have requested a revision to the previous design.

The project underwent site plan review in December 2018 and Planning staff advised the applicants that a gravel surface would be sufficient for the Special Home Event vehicle use area since it would be used less than five (5) days per week. The Conditional Use Permit allows the applicants to develop the parking area using natural pervious surfaces. However, §4.5 of Appendix E to the UDO requires that the applicants construct a concrete curb along the perimeter of the parking lot. The applicants request that the Planning Board recommend to Town Council that they not be held to that design standard and instead be allowed to create a system to manage stormwater that they feel is more appropriate for a residential property.

The third condition requires full movement of the two existing driveways. The applicants would like to utilize a third entrance for emergency access only.

The fourth condition states that no tents shall be allowed on the property. The applicants are requesting the use of tents on the rear walled terrace. Ms. Russell stated that she received an email from Mr. Naysmith after the staff report had been completed and added to the agenda packet detailing an inconsistency in the two narratives he had provided. He informed Ms. Russell that he would like to also request that tents be permitted on the paved area in front of the house for Special Home Events. The applicants have not stated how many tents they would like to use at one time for an event but the tents will not exceed 1,500 square feet with open sides. In summary, the applicants are requesting approval to place tents on the rear walled terrace and on the paved area in the front of the house.

APPLICANT’S PRESENTATION - Donald Naysmith:

Mr. Naysmith addressed the Board and stated that in November 2018 they suspended implementation of Special Home Events due to some engineering and space utilization concerns. They proceeded with restoration of the house which was completed in August 2019 and opened the Bed and Breakfast Inn.

Mr. Naysmith stated that he and Mrs. Naysmith have a passion for restoring historic properties and have restored six estates on the National Register and one civilian conservation corps camp. They understand the value of aesthetic appeal, both from the aspect of neighbors as well as their guests. Mr. Naysmith shared a PowerPoint presentation of the previous condition of the property and the improvements to date.

The amendment includes the third driveway, the surface of the parking area and the use of tents. This request to use tents is due to some extraordinary circumstances, new information, and the fact that they are working with a National Register property.

Mr. Naysmith stated that the third driveway was originally concealed by heavy vines and brush. In the process of removing some of that brush they discovered embedded pea gravel. The trail of gravel extends from E. Connecticut Avenue to a detached garage on the property so they believe it to be part of the original estate and they would like to see it restored. There is also a need for emergency vehicle access at that end of the property which this driveway would provide. This entrance would be gated and limited to emergency access.

With regard to the parking area and curbing, the applicants feel that since this is a residential property and the parking area will only be used twenty (20) times per year by up to 27 vehicles for Special Home Events, the standards of the UDO are excessive. Mr. Naysmith said that Neal Smith of Neal Smith Engineering has assured them that stormwater can be appropriately managed given the slope of the property.

Chairman Carroll asked B.J. Grieve if NCDOT would have any issues with adding a third access.

Mr. Grieve responded that a curb cut for the third access would be subject to NCDOT approval.

Cooper Carter inquired about emergency vehicles using the second entrance.

Mr. Naysmith responded that the second entrance is only sixteen feet wide, making it challenging for emergency vehicles. The third entrance could easily be twenty (20) feet wide.

Mr. Naysmith said with regard to the use of tents, there is no space inside the house that can accommodate 80 individuals, the number allowed by the Conditional Use Permit. Adding onto the house to create more space or knocking down walls is not consistent with their vision for the property. They would also be required to install a fire suppression system with sprinklers which would have a great impact on the aesthetics of the interior of the home. Their desire is to not entertain any of those options but instead to use tents on the walled terrace at the rear and on the paved courtyard in front of the house. The front courtyard is adjacent to the front entrance of the house and on the same level as the parking area which could be beneficial for some guests. They are seeking flexibility to utilize either location.

Chairman Carroll asked if the tents would be erected for events and then removed.

Mr. Naysmith responded yes.

Chairman Carroll asked if a tent in the front courtyard would create any issues with regard to emergency access and Mr. Naysmith responded no.

Mr. Carter commented that traffic flow would be more of an issue with a tent in the front courtyard because you would lose access to the western entrance.

Mr. Naysmith agreed and said guests would need to use the existing driveway to the east of the house.

Mr. Carter asked if they would ever have a tent in the front and the rear at one time.

Mr. Naysmith responded that he was not sure; it would depend on the needs of the guests, but they are only permitted to have 80 guests.

Chairman Carroll asked if anything being requested is contradictory to the standards of the UDO.

Ms. Russell responded no.

Ms. Russell stated that there were members of the public in attendance for the first public hearing who were opposed to the use of tents, but no comments had been received regarding the current application.

Mr. Naysmith stated that when the discussion regarding tents took place at the Town Council meeting the neighbors were opposed to tents being in the yard.

Mr. Carter inquired about the elevation of the terrace.

Mr. Naysmith responded the left side is four to five feet and six to eight feet on right.

Mr. Carter asked if the tent would extend to the edge of the terrace.

Mr. Naysmith said they would abide by the regulations of the Ordinance.

Mr. Carter stated that there appears to be some erosion along the front of the property and inquired about the plans for stormwater management.

Neal Smith responded that the parking lot itself has not been graded. They are requesting a deviation from the curb requirement because they do not want to collect the water. They want to design the parking lot so that it slopes off of both sides allowing the water to flow in both directions and disperse into the grass. With regard to the tents, a 1,500 square foot tent is smaller than the terrace and there will be four to five feet outside of the tent. All building code issues will be addressed.

Ms. Russell stated that she held a meeting with Mr. and Mrs. Naysmith, Fire Marshal Ken Skipper and Chief Building Inspector Eddie Garner to discuss this project and that the project will be required to undergo full site plan review.

Ms. Russell entered the applicants' PowerPoint presentation into the record as Exhibit B.

Kim Wade made a **motion**, which was seconded by Benjamin Greene, to close the hearing. **The motion carried unanimously.**

PLANNING BOARD ACTION:

Cooper Carter made a **motion**, which was seconded by Benjamin Greene, to adopt Attachment "A" to the staff report as the findings of fact regarding Conditional Use Permit CU-01-20 with the following changes (**in bold print**):

1. Finding of Fact #2 Criteria B: The Planning Board finds that the amendments to the existing approved conditions for the Special Home Events Land Use mitigates potential impacts as they relate to the character of the neighborhood. Evidence of consideration of impacts and mitigation through site design include revisions to the parking area and design for Special Home Events while considering that this parcel and the surrounding areas are zoned residential, improving the internal traffic circulation by allowing emergency vehicles to have their own access to the property via a separate entry point, and requesting to place event tents no larger than 1,500 square feet on the existing walled terrace at the rear of the home **as well as at the front of the property as shown on Exhibit E**, as to not impose upon the request of the neighbors to not allow tents on the property. Additional assurances of compliance with the UDO requirements are provided by the requirement for detailed site plan review by the Town of Southern Pines prior to site construction. The Planning Board therefore finds that the proposed three (3) amendments of the four (4) existing conditions conform to the character of the neighborhood in which it is located.
2. Finding of Fact #2 Criteria D: The Planning Board finds that the amendments to the conditions for the driveway and emergency vehicle entrance as well as the allowance of tents on the walled terrace **and at the front of the property as shown on Exhibit B** will be developed and generally function in a manner that is consistent with surrounding properties as to not diminish or impair property values within the neighborhood for the reason that the overall look and feel of these elements of the project better fit the residential neighborhood in which they are placed.

The motion carried unanimously.

Cooper Carter made a **motion**, which was seconded by Kim Wade, to approve Conditional Use Permit CU-01-20. **The motion carried unanimously.**

2. **CU-02-20: Conditional Use Permit; 1.86 Acres; Applicant, B & R Holding Company, LLC (Brandon Goodman on behalf of Rachel Jurgens)**

Mr. Brandon Goodman of Redbrand Inc, on behalf of Ms. Rachel Jurgens of B & R Holding Company, LLC, has submitted a Conditional Use Permit application requesting approval of a food truck campus development. The 1.86-acre subject property is zoned GB (General Business) and is located on the southeastern quadrant of the intersection at West Morganton Road and Southwest Broad Street. It is in close proximity to US Highway 1. Per UDO §5.9.2 Food Truck Campuses shall require approval of a Conditional Use Permit. The proposed development consists of six (6) food truck stations that will be served by a permanent building containing office and storage space as well as a bar. The subject property is identified by the following: PIN: 858100061104 (PARID 20180500) and the property owner is listed as B & R Holding Company, LLC.

Chairman Carroll confirmed that there were no conflicts of interest among the members of the Board.

OATH OF TESTIMONY:

The oath was administered to those planning to speak during the hearing.

STAFF REPORT – Lauren Long:

Ms. Long addressed the Board and stated that the subject 1.86 acre property is located at 801 SW Broad Street and is zoned General Business (GB). The applicant is requesting a Conditional Use Permit for a food truck campus with spaces for six (6) food trucks and a new building to serve as office and storage space for the applicant and beverage service. Adjacent uses include a restaurant, the Ivy Glen residential community, vehicle repair services, a bank and a gas station.

There is access to the site from SW Broad Street and from US Highway 1 and public utilities are available on site. There is a gravity sewer main running along the frontage of SW Broad Street as well as a water line that is currently serving the Pony Espresso building.

The project as proposed is generally compliant with the development and design standards of the UDO as well as zoning regulations and it is consistent with the designated land use description stated in the Comprehensive Long Range Plan. It is compatible infill development and the intensity of use does not exceed the surrounding mix of uses at the intersection of East Morganton Road and SW Broad Street. However, the project is not consistent with the Comprehensive Recreation and Parks Master Plan which calls for a sidewalk along the eastern side of SW Broad Street. In order to be consistent with that Plan, approximately thirty (30) feet of sidewalk and a pedestrian accessible ramp would need to be installed along SW Broad Street.

The site plan submitted with the Conditional Use Permit application does not include sidewalks. If the Conditional Use Permit is approved as is and the project comes in for site plan review, staff will not have the ability to require the applicant to build the sidewalk at that time. In accordance

with UDO §2.21.8 Conditions, *“In approving any CUP, the Planning Board may recommend, and the Town Council may impose such reasonable standards, conditions, or requirements, in addition to or superseding any standard specified in the UDO, as it may deem necessary to protect the public health, safety and welfare.”* If the Planning Board accepts staff’s determination of inconsistency with the Comprehensive Recreation and Parks Master Plan, staff has prepared a condition of approval that the Planning Board may use as its recommendation that is consistent with the drafted findings of fact.

Benjamin Greene asked for clarifications regarding the sidewalks.

Ms. Long responded that in order to grant a Conditional Use Permit, the project must comply with all regulations and adopted plans. One of the Town’s adopted plans is the Recreation and Parks Master Plan which includes a proposed sidewalk. It is under the purview of the Town Council to require the applicant to build the sidewalk as a condition of approval of the Conditional Use Permit.

Chairman Carroll asked if the applicant would need to request a variance from the sidewalk requirement.

Ms. Long clarified that the Board should request that the applicant install the sidewalk in order to be in compliance with the Recreation and Parks Master Plan. Since sidewalks are under the Subdivision section of the UDO, if the sidewalk is not a condition of approval of the Conditional Use Permit, staff cannot require the sidewalk as part of site plan approval.

Cooper Carter asked if sidewalk design standards for subdivisions are different from standards for sidewalks elsewhere in Town.

Ms. Long responded that design standards are the same for all Town sidewalks.

Mr. Carter asked if the length of this portion of sidewalk would be thirty (30) feet.

Ms. Long responded that the length would be approximately thirty (30) feet and recited the design standards for sidewalks from Appendix C-12. Only the portion of sidewalk that is shown in the Recreation and Parks Master Plan could be requested.

APPLICANT PRESENTATION – Brandon Goodman:

Mr. Goodman stated that the development will be named “Red’s Corner.” A text amendment allowing for the proposed use in the GB zoning district only and with approval of a Conditional Use Permit was approved by Town Council in December 2019. They are requesting six (6) food trucks as shown on the site plan, which is the number allowed by the text amendment. The subject property can accommodate the required amount of parking as well as stormwater management. He did not think there would be any objection to building the sidewalk.

Mr. Goodman stated that the site plan included in the application is still a work in progress and shared a revised site plan showing additional landscaping. There will be sidewalks and seating areas throughout the site. They are taking advantage of the topography of the property and

situating the food trucks lower on the site and having the new building and landscaping visible from the street. He shared several renderings of the proposed new building. The applicant plans to use the main level of the building as her office space storage for the business. There will be a recessed bar area and restrooms on the lower level. Mechanical equipment will be shielded from view. The hours of operation will be 9:00 AM to 9:00 PM seven (7) days a week. They will utilize the existing curb cuts and are not requesting any additional access points.

Rachel Jurgens addressed the Board and stated that her vision is to create a park-like setting with picnic tables and gathering spots and provide a variety of food choices.

Chairman Carroll asked if there is a limit on the number of people that can be on the site at one time.

Ms. Long responded that the development standards of the UDO limit the number of parking spaces but not the number of occupants.

Mr. Carter inquired about the power source.

Ms. Jurgens responded that she will provide power, eliminating the need for generators.

Dr. Greene inquired about traffic circulation and parking.

Mr. Goodman responded that the number of parking spaces provided exceeds the required number for six (6) food trucks.

Chairman Carroll asked if they anticipate a lot of site changes near the Pony Espresso building.

Ms. Jurgens responded that the entire site will be completely resurfaced and landscaped. The addition of an island will help the flow of traffic around the Pony Espresso building.

Dr. Greene expressed concern about there being a large number of cars in line for the coffee shop.

Neal Smith responded that Southern Pines requires stacking for at least six cars at a drive thru.

Mr. Carter inquired about the plans for stormwater management.

Neal Smith responded that the intent is to avoid losing any existing vegetation and they will meet all stormwater requirements.

Mr. Carter asked if it would be the Town's responsibility to provide the section of sidewalk that is within the right-of-way.

Ms. Long responded that the Board may recommend that installation of that section of sidewalk as a condition of the Conditional Use Permit, but the Recreation and Parks Master Plan only shows the sidewalk up to the corner. They may request any conditions superseding any standards specified in the UDO.

Ms. Long confirmed that there are no crosswalks in that area currently.

Discussed ensued.

Leslie Phillip, owner and operator of Thyme & Place Café, addressed the Board and stated that a better understanding of how traffic is going to flow from the site is critical to the success of the project. She expressed concern about the visibility of her restaurant being impacted given her signage limitations. Ms. Phillip stated that she had been told by Chris Kennedy that an option may be for the property owners on Hall Avenue to create a property owners association which could petition to have the existing freestanding sign include the names of all of the businesses on those properties and she hopes that consideration will be given to that idea as this project develops.

Ms. Jurgens stated that she left the freestanding sign in an effort to avoid having several individual signs.

Chairman Carroll responded that the sign is a separate issue, but the Board would make a note of Ms. Phillip's request.

Mr. Don Kinney, owner of the building in which Thyme & Place Café is located, addressed the Board and stated that a twenty (20) foot easement is shown on the plat which was proposed as well as an exchange of land which never came to fruition before he purchased the property. He requested clarification regarding hours of operation of a food truck campus and whether the trucks will leave the property at the end of each day.

Mr. Goodman stated that the proposed hours of operation are part of the Conditional Use Permit request and the applicant is proposing an extra hour of operation in the evenings. A power source and water and sewer connections will be provided so the intention is that the food trucks will change periodically but they will not be required to leave every night.

Discussion ensued regarding the length of time food trucks will be permitted to remain on the site and how the hours of operation will be enforced.

Mr. Goodman responded that the trucks may be open for business until 9:00 PM.

Mr. Kinney stated that his biggest concern is the site development details that are not yet available.

B.J. Grieve responded that once a Conditional Use Permit is approved, design requirements for the building as well as the site will need to be met and architectural compliance review will also be required.

Mr. Smith stated that stormwater management will be improved from what currently exists.

Mr. Goodman stated that there is a landscape buffer requirement.

Ms. Long entered staff report CU-02-20 as Exhibit A, Brandon Goodman's site plan as Exhibit B, the front elevation as Exhibit C and the side and rear elevations as Exhibit D.

A discussion ensued regarding the sidewalk and signage for neighboring businesses.

Chairman Carroll stated that he wanted to advise the Town Council of Ms. Phillips' concerns regarding signage.

PLANNING BOARD ACTION:

Cooper Carter made a **motion**, which was seconded by Benjamin Greene, to adopt the Findings of Fact listed in "Exhibit A" of the staff report regarding proposed Conditional Use Permit CU-02-20 with the following change:

Finding of Fact #2, Criteria D: The Planning Board finds that the proposed Conditional Use Permit will **generally** not have detrimental impacts to safety or viability of permitted uses on adjacent properties **with the exception of creating limited visibility for signage of adjacent properties, specifically Thyme & Place Café.**

The motion carried unanimously.

Cooper Carter made a **motion**, which was seconded by Kim Wade, to recommend approval of Conditional Use Permit CU-02-20 with the following staff recommended condition of approval:

The Planning Board recommends in accordance with §2.21.8 *Conditions for Approving a Conditional Use Permit* that as a condition of approval of Conditional Use Permit CU-02-20, Town Council require that the sidewalk proposed in The Town of Southern Pines Existing Park Inventory and Service Area Map be built to the standards found in §4.11.10 Street Width, Sidewalk and Drainage Requirements in Subdivisions. **The motion carried unanimously.**

OLD BUSINESS:

None.

NEW BUSINESS:

Mr. Grieve thanked the members of the Board who were present given the inclement weather.

Benjamin Greene made a **motion**, which was seconded by Cooper Carter, to close the meeting. **The motion carried unanimously.**

The meeting adjourned at 8:15 PM.

Respectfully submitted:

Cindy Williams
Secretary to the Planning Board