

MINUTES
Town of Southern Pines Planning Board Regular Meeting
March 24, 2022 at 6:00 PM

The regular meeting of the Town of Southern Pines Planning Board was held on Thursday, March 24, 2022, at 6:00 PM at the Douglass Community Center, 1185 W. Pennsylvania Avenue, Southern Pines, North Carolina.

Members present: Chair Gary Carroll, Vice Chair Diane Westbrook, Lemuel Dowdy, Kim Wade and Cooper Carter

Member absent: Andy Bleggi

Town staff present: B.J. Grieve, Planning Director, Jennifer Hunt, Planner I, and Cindy Williams, Secretary to the Board

CALL TO ORDER

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

APPROVAL OF MINUTES

Diane Westbrook made a motion, which was seconded by Kim Wade, to approve the Minutes of the February 17, 2022 regular meeting. The motion carried by a vote of 5-0.

PUBLIC HEARING: PD-04-22: Planned Development District – Conceptual Development Plan

Mr. Pete Bogle of Bogle Firm Architecture, on behalf of Very Reverend John J. Forbes, VF, has submitted a Planned Development District – Conceptual Development Plan application pursuant to §2.18.4 of the Town of Southern Pines Unified Development Ordinance (UDO) to allow a private school, athletic fields, cemetery, rectory and religious institution as the permitted land uses. The subject parcels are currently zoned RE (Rural Estate). The owner of the parcel identified as PIN 858315538280 (PARID 00038409) is listed as Michael F. Burbidge, Bishop of the Roman Catholic Diocese of Raleigh, North Carolina; and the owner of the parcels identified as PIN 858315635655 (PARID 00991755) and PIN 858315635197 (PARID 10001608) is listed as F. Joseph Gossman, Bishop of the Catholic Diocese of Raleigh.

Chair Carroll asked if there were any conflicts of interest among the members of the Board and there were none.

Diane Westbrook made a motion, which was seconded by Lemuel Dowdy, to open the public hearing. The motion carried by a vote of 5-0.

B.J. Grieve provided an overview of the application for a Planned Development Conceptual Development Plan and stated that the applicant was requesting 480 parking spaces on the west side and an additional 20 spaces on the east side of the property, for a total of 500 additional parking spaces, and that all of the transportation infrastructure internal to the development be driveways. The UDO requires sidewalk access between activity areas but the applicant is proposing to add sidewalks only from parking areas to activity areas and not between activity areas. Town staff has proposed a condition for the Board's consideration that this deviation not be granted because pedestrian infrastructure internal to a development is important under the UDO.

The subject properties are located within a High Quality Watershed and therefore without exemption allocation, the applicant is restricted to no more than 24% built upon area. The development as proposed would be at 26.2% built upon area for the eastern portion (Phase 1) and 26.9% for the western portion (Phase 2) which would require allocation of 42.2 acres of the Town's exemption, which is a lot of allocation for a campus that is only going to use 2.2% and 2.9% of that allocation. Because the application exceeds the maximum impervious surface, 500 parking spaces is an inordinate amount of parking for a church.

Buffers are being proposed to mitigate the impacts to adjacent land uses and a TIA will be required with the submittal of a Preliminary Development Plan for each phase of the project.

Chair Carroll asked if there had been any discussion between Planning staff and the applicant regarding parking.

Mr. Grieve responded that he had made the applicant aware that Planning staff's position is that 500 spaces it is an inordinate amount of parking.

Cooper Carter asked if the 500 parking spaces would be in addition to the existing 127 spaces and Mr. Grieve confirmed.

Mr. Carter asked Mr. Grieve if there is a reason why the CLRP is specific to elementary schools and Mr. Grieve responded that in his professional interpretation based on experience, schools, churches, civic and similar uses would be appropriate in a Residential zone.

Lemuel Dowdy asked Mr. Grieve how many parking spaces Planning staff thought were appropriate for the proposed use.

Mr. Grieve responded that given the context of the development and the totality of the circumstances, i.e. adjoining land uses, character of the area, etc., Planning staff suggests that the number of spaces be capped at one (1) space per every four (4) seats, which would equate to approximately 350 parking spaces.

Kim Wade asked if the applicant was requesting the stated number of parking spaces because they are planning to build a 1,200 seat church.

Mr. Grieve responded that it was his understanding that the applicant is currently focused on Phase 1, which is a K-8 school building.

Mr. Grieve stated that RE (Rural Estate) zoning was a challenging fit for a rapidly expanding school and a church, etc. Over the years, when representatives from the school have come in to discuss various expansions, staff has suggested that they put together a campus plan for the school and come in with a Planned Development. With PD zoning they would avoid having to attempt to fit a school into Rural Estate zoning. He was not aware of the church and the parking lot on the west side of the property until the application was submitted. The permitted uses being proposed are limited to a private school, religious institution and a residential single-family home to serve as the rectory.

Mr. Pete Bogle, the architect for the project, stated that the proposed Conceptual Development Plan is appropriate for the area and it limits the number of uses that are permitted. The overall site consists of 42.2 acres and the overall impervious surface based on total acreage instead of individual parcels is 25.59%. The main focus of the development is currently the school. The application states that once the threshold rises above 24% impervious area, the applicant would have to apply for the 5/70 exemption or look at other alternatives. In subsequent conversations with the Diocese, the Diocese has agreed to limit the site to 24% maximum impervious surface but they do not want to set the maximum number of parking spaces at one (1) space per four (4) seats. The numbers were provided by the Raleigh Diocese which conducted studies in the eastern and central parts of North Carolina showing that on their maximum Sundays they need one (1) space per 2.5 seats. They are looking at potentially moving the sanctuary itself a little closer to the school, but still be located on the west parcel, so they can share the 127 existing parking spaces. Another way to minimize impervious surface and still provide parking is to use grass paved parking. They will agree to the 24% maximum impervious, not request the 5/70 exemption, and try to move the church closer to the school so the church can use some of the school's existing parking for overflow parking. With moving the church closer to the school, it absolutely makes sense to connect the church and school with sidewalks.

One of the concerns that was raised at the neighborhood meeting was the closeness of the parking lot to the residential development and the easement that is on the western portion of the property. There is a recorded access easement for a six (6) acre tract at the northwest corner of the site. There was some discussion about closing the easement if the church were to buy the six acre tract but they were presented with a court case from the mid-1990's that showed that Warrior Woods has some assumed rights to the easement. The parking as shown shows that the church would improve the easement so that it could be used as a secondary means of ingress and egress from the parking area. The main goal currently is to get the property rezoned so they can move forward with the Preliminary Development Plan for the school building.

Other concerns that were raised at the neighborhood meeting pertained to lighting. They have stated in the application that the new lighting shall comply with the UDO. Existing lighting for the school should be able to remain unaltered, and new lighting for the church shall comply with the UDO and parking lot lighting shall be full cutoff dark sky compliant LED's, parking lot lighting shall be self-dimming with motion sensors per parking section. The church reserves the right to leave the lights on during special events as defined in UDO §5.3, such as a midnight mass. They will comply with all of the other design standards of the UDO. They felt that a private drive would fit in better with the residential-style neighborhood than a more commercial roadway.

The immediate goal is the Conceptual Development Plan for the entire site so that they can move forward with a PDP for the school itself.

Ms. Westbrook asked Mr. Bogle if the church has the right to use the existing easement and Mr. Bogle confirmed.

Ms. Westbrook asked Mr. Bogle who has the right to determine who can use the easement.

Mr. Bogle responded that the property owner has the right to use the easement. There is a deeded easement for the six (6) acre tract to be able to use an 18' wide easement out to the main road. A court case went through in the mid 1990's when the previous owner of the property decided to start blocking off the easement because Warrior Woods residents were using it. It was challenged and the Warrior Woods residents won the court case so the applicant assumes that they have the right to use the easement and they are not challenging that.

Mr. Carter suggested that Mr. Bogle visit the McDeeds Creek Elementary School site to see how the internal roadways were developed.

Mr. Bogle responded that the biggest difference between a private driveway and the more commercial-type driveway is curbs and what they are proposing would be consistent with what currently exists on the site.

Several residents of the Pine Barrens neighborhood and others were in attendance and voiced their strong opposition to the project. They felt that the project was incompatible with the area which they consider to be horse country, and their concerns included increased traffic, light pollution, and the detrimental impacts additional traffic will have on the horses that are currently kept on neighboring properties.

Rev. John Forbes, Administrator of St. John Paul II Catholic School and the Bishop's area representative, stated that based on the comments that had been made, there was nothing they could do that would make the neighbors happy. What it comes down to is it is a good idea for them to have a church and to have a school, but to have it somewhere else. Their passion for

their property is as strong as anyone else present has for their property. They want to have a place for people to go and worship God. When they talked to the Town years ago, the Town did not want them downtown and told them to move further out of Town. They were approved to have an elementary and a middle school. All of the infrastructure has already been installed and approved. They did everything the Town asked them to do to accommodate the school. The Town said they wanted the school to move out of the temporary buildings and build something permanent. They are not asking to build a school on a vacant piece of property. The school is already there. The cemetery is already there. The surrounding area is not equestrian. Belle Meade is behind this property and there is another church down the street and McDeeds Creek Elementary School is across the street. Not only was the school approved as an appropriate use for the area, it was a permitted use. There are other plans for commercial development in that area as well. What they are doing certainly fits with what is existing. The property was for sale and anyone else could have purchased it but they did not.

Dee Chardonny asked Rev. Forbes if the property was zoned Rural Estate when it was purchased by the church and Rev. Forbes responded yes, and that a church was permitted.

Ms. Chardonny said when they purchased the property it was zoned RE but they were permitted to build a church on it.

Cooper Carter asked Mr. Grieve for an understanding of the property's current zoning and what uses were allowed when it opened.

Mr. Grieve responded that the Catholic Church bought a piece of property on which a home was located. The Town of Southern Pines zoning official at that time made the determination that the rectory was not a church and you could not have a school that was accessory to a house. That was appealed to the Board of Adjustment and the Board of Adjustment overturned the interpretation of the zoning official and said that the rectory was a church and they could have a school as an accessory to the church. When the church came in for site plan review for the school, they overbuilt the infrastructure because there were plans for additional buildings. That is the history of how this property that is zoned RE came to have a school on it because it started out as a school that was accessory to the church and the church was the rectory.

The challenge Planning staff has had is that every time the church has come in to say they want to do certain things at the school it has been an awkward fit with the property being zoned RE so staff recommended that they come up with a campus plan for the school and bring it through as a rezoning at some point and it was determined that PD would be the most appropriate zoning. Mr. Grieve stated that it was his understanding that there has been a lot of interaction with the Town regarding this property over the years. The current application is for a Conceptual Development Plan.

Cooper Carter said he did not perceive the issue to be the parcel that is the school. The key concerns that he heard raised are about the additional parcel.

Mr. Grieve stated that the subject property is designated Residential on the CLRP Future Land Use Map. The adjoining property is designated Rural Equestrian. The RE in zoning no longer stands for Rural Equestrian; it stands for Rural Estate.

Mr. Carter asked if a school is allowed in RE and Mr. Grieve responded that he did not think a school was a permitted use in RE.

Mr. Carter asked why the property was not rezoned earlier.

Mr. Grieve responded that the structure that was on the property at the time the church purchased it and the Board of Adjustment determined that the structure was a church. Since it was a church it could have a school as an accessory to the church so it did not need to be rezoned.

Sheri Sullivan stated that she did not think anyone present was saying that they did not want the existing school to exist. The big issue is the new property where they want to put the large church, parking lot, playing fields, etc. is zoned RE and they would like for that parcel to remain RE based on all of the information provided during the hearing.

A Pine Barrens resident asked if the church could guarantee that the vacant parcel would not be developed for several years. Rev. Forbes responded that he could not imagine any development for at least six to eight years.

Rev. John Kane of St. Anthony's Catholic Church stated that the church could be tomorrow, it could be in 10 to 15 years, or it may never be built. The primary purpose of the application is for the school but to have the space available for a church if they need it.

Adam Kiker stated that the problem that he has personally is that the property is zoned the way it was zoned when they bought it and what they would like to do, especially on the western parcel, is not allowed under the current zoning and in the neighbors' opinion, what they want to do is not consistent with the goals and policies of the CLRP.

Mr. Bogle stated that RE zoning does allow elementary schools but churches, middle schools and high schools clearly are not allowed. When applying for a rezoning they first look at what other uses are adjacent to the property. One of the zoning districts they considered was FRR-CD because it would be an extension of property that is currently owned by the Diocese. In FRR you can have an elementary school, a middle school and a high school, but still no church. Churches, believe it or not, are only allowed in RR and GB. The reason for requesting PD zoning is that there is a large tract across the street that is zoned PD and PD does allow for mixed use. Civic uses would be allowable in a PD. They knew that including the church and parking lot on the site plan

was going to cause concerns. The school for grades K-8 was encouraged by the Town and the Town even encouraged the school to build the pad for the permanent school that would take the place of the temporary classrooms. Because the Town recommended that PD would be an appropriate zoning for the site, they had to create a plan for what uses would be allowed on the site. A high school is not allowed, so the only permitted uses would be a K-8 school and a church. They have heard the concerns and they are going to be preparing some revised plans to present to Town Council that will call out the 24% maximum impervious, show some added buffering, including the ten (10) feet on the west side of the easement and in the area of the land that is on the east side of the easement. They will be looking at moving the church further into the site and connecting it to the school with sidewalks so they can reduce the overall parking. The school was encouraged to move out there and they are just as invested in their property as any of the neighbors are in theirs.

Mr. Mace asked if there is documentation showing who from the Town has been telling the church that was a great place for the development.

Mr. Grieve stated that he knew Deb Lawson from a meeting that was held two or three years ago but at that time he was not the Planning Director.

Ms. Lawson responded that she went to Bart Nuckols in 2002. They had a school in downtown Southern Pines and it was becoming more crowded so she went to the Town and said she was a real estate agent working to find a location for the school and she was told by Mr. Nuckols that the Town was working on changing the UDO, which they did, and that they were working to get schools and churches away from downtown Southern Pines because of the traffic so she should go out to the ETJ and find a property that was more than 20 acres. At that point she contacted Kelly Miller because the Catholic Church already owned other parcels. In 2002 when they closed on the property and the 6,000 SF house became the rectory where the priest lived and he put a chapel in there to hold daily mass. The Town knew that they wanted to have a school out there. There was not a lot out there and they were happy that we were getting out of downtown Southern Pines. At the time they put the infrastructure in they had to come back to the Town and Town said they were changing their plan and recommended that they do everything they needed to do for a 400 student school.

Mr. Grieve asked when the Board of Adjustment hearing occurred.

Ms. Lawson said that would have been just after they purchased the property. It was recommended by the Town Council at the time that they put in the infrastructure for everything they planned and they came to the Council in 2007 with a big set of plans and they said it was great and to go ahead and put in all of the water, sewer, retention ponds, etc. so infrastructure is already in place for a future school, which they did at a cost of \$1M.

Chair Carroll stated that the regulations that are in place today are different from the rules in places in the early 2000's.

Mr. Grieve stated that a school being allowed as accessory to a church is no longer in the UDO and that is why it was determined that any expansion of the school would be the expansion of a nonconformity requiring a Special Use Permit.

Ms. Lawson said they went to Chris Kennedy after Bart Nuckols had retired and he kept telling them no.

Mr. Grieve said that was because the text of the UDO had changed and schools were no longer allowed as accessory to a church so therefore you had a school that was there pursuant to the Board of Adjustment's action and it was grandfathered to continue to exist but to expand it would fall under a non-conformity pursuant to the UDO, which can be done but requires a Special Use Permit and the issue was that every time they wanted to add a modular the Town asked why they didn't just build a school. Therefore, a discussion occurred between she and Chris Kennedy that the best thing would be to come up with a plan to be transparent and show the vision for the property and work through the approval process. Mr. Grieve said it was his understanding that it was communicated to the church to show what they wanted to do, come in with a plan, request a rezoning. The plan shows all of the property they own and the vision for the property.

Diane Westbrook asked when the 14 horse country properties were created.

Mr. Mace responded that he subdivided the 165 acre horse farm in 2001.

Ms. Westbrook asked if the parcel being discussed was part of that development and Mr. Mace responded that it was not part of the development.

Chair Carroll stated that the purchase of the original parcels by the church and the development of the 165 acres occurred at approximately the same time. The purchase of the additional parcel took place in 2014.

Diane Westbrook made a motion, which was seconded by Kim Wade, to close the public forum. The motion carried by a vote of 5-0.

Cooper Carter made a motion, which was seconded by Diane Westbrook, that after reviewing the proposed Conceptual Development Plan and considering the criteria for approval of a Planned Development District found in UDO §2.18.4(H), the requested Conceptual Development Plan is inconsistent with the Comprehensive Long Range Plan for the reasons set forth in Attachment A to staff report PD-04-22 as revised by the Planning Board, and therefore to recommend denial of PD-04-22 to the Town Council. The motion carried by a vote of 5-0.

OA-01-22: Text Amendments to the Unified Development Ordinance; Petitioner: Town of Southern Pines Administration Department

The Town of Southern Pines Administration Department is proposing to amend the Unified Development Ordinance (UDO) with a variety of text amendments and is requesting Planning Board and Town Council review and approval per UDO §2.17. The proposed amendments are to replace references to “caliper” with “diameter breast height (DBH)” in UDO §4.3.13(B); to add a definition for “Caliper” and “Diameter Breast Height (DBH)” in UDO §9.3; and to remove UDO §8.14.1(C) which limits the number of successive complete terms that a member may serve on the Board of Adjustment.

Chair Carroll asked if there were any conflicts of interest among the members of the Board and there were none.

Cooper Carter made a motion, which was seconded by Kim Wade, to open the public hearing. The motion carried by a vote of 5-0.

B.J. Grieve provided an overview of the proposed text amendments.

Cooper Carter made a motion, which was seconded by Diane Westbrook, to close the public hearing. The motion carried by a vote of 5-0.

Diane Westbrook made a motion, which was seconded by Cooper Carter, 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, the proposed text amendments are consistent with the Comprehensive Long Range Plan for the reasons set forth in attachment A of staff report OA-01-22 and therefore to recommend approval of OA-01-22 to the Town Council. The motion carried by a vote of 5-0.

ADJOURNMENT

Diane Westbrook made a motion, which was seconded by Cooper Carter, to adjourn the meeting. The motion carried by a vote of 5-0.

The meeting adjourned at 10:42 PM.

Respectfully submitted:

Cindy Williams
Secretary to the Planning Board