

MINUTES
Town of Southern Pines Planning Board Regular Meeting
via virtual meeting
June 18, 2020 at 6:00 PM

The regular meeting of the Town of Southern Pines Planning Board was held on Thursday, June 18, 2020, at 6:00 PM via video conference.

Board members present: Chairman Gary Carroll, Vice Chairperson Diane Westbrook, Benjamin Greene, Lemuel Dowdy and Cooper Carter.

Board members absent: Kim Wade and Andy Bleggi.

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

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

APPROVAL OF MINUTES:

Diane Westbrook made a **motion**, which was seconded by Benjamin Greene, to approve the Minutes of the May 21, 2020 regular meeting. **The motion carried unanimously.**

Gary Carroll made a **motion**, which was seconded by Benjamin Greene, to conduct all of the public hearings on the agenda as legislative proceedings. **The motion carried unanimously.**

Chairman Carroll confirmed that there were no conflicts of interest among the Board with regard to CU-04-20.

Lemuel Dowdy made a **motion**, which was seconded by Benjamin Greene, to open the public hearing. **The motion carried unanimously.**

PUBLIC HEARING:

CU-04-20 and S-18-20: A Conditional Use Permit and Major Subdivision Preliminary Plat for Modifying Lots 10-18 and 30-34 Within an Existing Residential Development; Applicants: Black Point Development, LLC (Jim Kirkpatrick); Tim Carpenter of LKC Engineering, Authorized Agent

Mr. Tim Carpenter of LKC Engineering has submitted an application for a Conditional Use Permit and a Preliminary Plat for a major subdivision to renew an expired preliminary plat and modify the lot dimensions of the lots 10-18 and 30-34 for the existing residential subdivision of Cottages at Midland approved in 2017. The existing subdivision consists of 36 lots on 13.52 acres and is zoned RS-1 Residential Single-Family Conditional District (RS-1CD). Cottages at Midland is part of the larger Planned Residential Development of Talamore approved in 1989

for 489 dwelling units. The subject parcel is identified as Moore County PIN: 857200779825 and (PARID: 00030889). Per the Moore County tax records, the property owner is listed as Black Point Development, LLC.

STAFF PRESENTATION – Lauren Long:

Ms. Long addressed the Board and stated that the request was to renew an expired preliminary plat of the Cottages at Midland and to modify lots 10 through 18 and 30 through 34 by increasing the depth of those lots by between two (2) and ten (10) feet. These changes will affect the distribution of open space but the open space requirements and the geographical boundaries of the perimeter buffer that were established in the original subdivision of Talamore will be maintained. Ms. Long stated that lots 16, 17, 32 and 34 are adjacent to the 50 foot undisturbed buffer required by the original master plan that was approved with CU-03-89. An encroachment into the buffer was previously approved with CU-04-16 and that encroachment will be enlarged slightly if the modification is approved. The applicant proposes to maintain the portion of these lots that extends into the buffer as undisturbed area by placing deed restrictions on those lots. Infrastructure and utilities are in place but have not been verified for compliance with the approved site plan (ZP-07-17) as a final plat has not yet been submitted. Ms. Long stated that the application for a new preliminary plat will not only validate the requested changes to those lots but will reset the timeline for a final plat.

APPLICANT PRESENTATION – Tim Carpenter :

Mr. Carpenter addressed the Board and shared a map of the impacted lots and the change in the dimensions of those lots. He stated that the change in lot dimensions will create a reduction in open space of 2.6% but the development will still be well in excess of the required amount of open space.

Lemuel Dowdy asked Mr. Carpenter if the deed restriction language had been finalized.

Mr. Carpenter responded that the lots would be deed restricted by way of the final plat showing the area on each lot.

Mr. VanCamp stated that the deed restriction language had not yet been completed.

Mr. Carpenter stated that the final plat was being prepared.

Mr. Dowdy asked if the intent was that there would be no disturbance at all within the area of the lots that encroaches into the buffer.

Mr. Carpenter responded that was correct. He shared the landscape plan and stated that the developer is required to plant some additional vegetation and intends to work with Planning staff to minimize the amount of disturbance. He stated that lot 33 will be the most impacted.

Mr. Carpenter said he believed the plantings that are currently in place were requested and agreed to as part of the 2016 Conditional Use Permit approval to provide additional vegetative screening for the adjacent Middleton Place properties.

Diane Westbrook asked if the hatched area shown on lot 33 will be restricted.

Mr. Carpenter responded yes.

Chairman Carroll asked why the hatched area was shown on the lots if that area will be restricted and not disturbed.

Mr. Carpenter said the hatched area was included due to the required minimum lot size of 7,500 square feet but the building setback does not extend into the buffer.

Chairman Carroll stated it was his understanding that the buffer area was not under the control of the Talamore Property Owners Association.

Mr. Carpenter responded that these are 36 new lots that will be incorporated into the Talamore Master POA but there will also be a sub-POA for these lots because they are going to be maintenance-free home sites. The residents of these lots will pay the sub-POA for yard and common area maintenance and also pay the Master POA dues.

Chairman Carroll asked who would be responsible for enforcing the non-disturbance of the restricted area.

Mr. Carpenter said he assumed that would be a function of the sub-POA and also the Master POA.

Diane Westbrook asked if notice had been sent to owners of the properties that adjoin the impacted lots and if any response had been received.

Lauren Long responded that the Public Hearing Notice had been sent to the owners of the properties that adjoin the buffer area.

Mr. Carpenter stated that he and Mr. Kirkpatrick had received a few calls from property owners and he had provided Mr. Peter Holmes with examples of elevations of the homes that will be built. Mr. Carpenter stated that another property owner had expressed concerns about headlights, but that a substantial amount of landscape screening will be in that area to block light from headlights. Mr. Carpenter said there will be ongoing meetings with the adjoining neighbors during the landscaping process.

Peter Holmes stated that his property is adjacent to the buffer zone abutting lots 16 and 17 and asked if the deed restriction will prevent the construction of a patio or a home in the buffer.

Mr. Carpenter responded that the Master POA and the sub-POA will need to regulate the construction of a patio.

Mr. VanCamp responded that type of construction can be addressed in the Covenants and be controlled by the POA.

Mr. Carpenter stated that a POA can take action if a project is constructed without its approval.

Mr. Holmes asked if the Talamore POA can control a decision regarding the construction of a patio or a building in the area of the buffer that is restricted by deed.

Mr. Carpenter responded that he thought they were granted that power through the Covenants.

Mr. VanCamp responded that the POA does have that authority.

Mr. Holmes stated that the buffer zone has been approved and he did not think it could be violated by the POA of the Talamore community.

Mr. Van Camp responded that was correct and that the POA cannot change what has been approved.

B.J. Grieve stated that if a building permit application was submitted for construction within an area that is labeled on a final plat as undisturbed area, it would not be approved.

Mr. Holmes stated that if the developer who is seeking the amendment will be building the homes he will be aware well in advance that the buffer zone is a restricted area so there should be no question.

Mr. Grieve responded that appears to be the case here. However, once lots are final platted, the Town of Southern Pines does not control who builds the homes but building permit applications are reviewed for compliance with zoning.

Mrs. Anne Holmes stated that the lot lines have been moved and are within the buffer zone.

Mr. Carpenter stated that the buffer zone is a regulated zone that was established under the 1987 approval of the Talamore development and it was intended to be a 50 ft. undisturbed buffer. They are not proposing to change the fact that it is a 50 ft. undisturbed buffer. In 2016, this same buffer zone was encroached upon and they are requesting a little bit of an additional length of that encroachment, but that does not change the fact that the buffer zone should not be encroached upon. Mr. Carpenter stated that the intended builder and the developer understand that the buffer is to remain undisturbed and there is no intent to encroach into the buffer.

Mr. Holmes stated that it was his understanding that a patio or swing set would need zoning approval.

Mr. Grieve responded that typically the definition of “setback” is from the building to the property line. Therefore, typically patios are not subject to setbacks. When an application presents a copy of a site plan for patio in an area that is shown on a final plat as a deed restricted area that is to remain undisturbed, we would tell them the patio could not be constructed in the area that is to

remain undisturbed. He stated that it was his understanding that the builder of the homes on these lots understood and that the buffer as currently shown on the preliminary plat will be required to be shown on the final plat. Mr. Carpenter has explained that the extension of lots 10 through 18 and 30 through 34 further into the buffer means the owners of those lots will own a portion of land within the buffer but that portion of their property will need to remain undisturbed.

Mr. Holmes asked Mr. Grieve if he was saying the builder has to go to the Planning Department for approval of an encroachment into the buffer zone.

Mr. Grieve responded that he was saying that any contractor that wants to build a structure in the Town of Southern Pines must obtain a building permit. When that building permit application is received, the zoning official reviews the application for compliance with zoning and any buffers or setbacks.

Mr. Carpenter stated that if someone came in with a building and site plan that showed an encroachment into the buffer that site plan would be denied.

Mr. Holmes asked if the original plans provide for the continued existence of a number of trees on the lots and if those trees are protected by the landscape plan if trees have to be removed by the builder of a house on those lots.

Mr. Carpenter responded that there are approximately six (6) or seven (7) trees shown on lot 25, none of which are within the building envelope. However, if there were some existing trees within the building envelope they would have to be removed in order to build the house. Mr. Kirkpatrick has saved a lot of trees out there and intends to save all that he can on the site. The intent has been to preserve as many trees as possible all along. The perimeter trees will be preserved to the extent it is practical and plausible.

Mr. Holmes asked if the vast majority of trees that are shown on the landscape plan will be retained and only those within the building footprint will be removed.

Mr. Carpenter responded that will be the intent, but saving those trees is not regulated by the Town.

Benjamin Greene made a **motion**, which was seconded by Lemuel Dowdy, to close the public hearing. The motion carried unanimously.

Board discussion ensued regarding the buffer area.

PLANNING BOARD ACTION:

Lemuel Dowdy made a **motion**, which was seconded by Cooper Carter, to adopt Attachment "A" of the staff report as their findings of fact regarding the proposed Conditional Use Permit CU-04-20 with the last sentence of Finding of Fact #2, item D, being revised to read as follows: The buffers required by CU-03-89 remain minimally impacted by the area of encroachment requested for lots 16 and 17 as well as 32 and 33 through the developer's use of deed restrictions on these lots to maintain the area as an undisturbed buffer. **The motion carried unanimously.**

Lemuel made a **motion**, which was seconded by Cooper Carter, to recommend approval of Conditional Use Permit CU-04-20. **The motion carried unanimously.**

Lemuel Dowdy made a **motion**, which was seconded by Diane Westbrook, to approve Attachment “B” as their findings of fact regarding proposed Preliminary Plat S-18-20. **The motion carried unanimously.**

Lemuel Dowdy made a **motion**, which was seconded by Diane Westbrook, to recommend approval of Preliminary Plat S-18-20. **The motion carried unanimously.**

OLD BUSINESS:

Mr. Grieve provided the status of the Town Council public hearings regarding the Forest Creek rezoning request ZP-02-20 and Conditional Use Permit application CU-03-20.

NEW BUSINESS:

Mr. Grieve stated that the Planning Board would meet in July and there would also be an agenda meeting.

Chairman Carroll expressed his appreciation to the Board members for their efforts in conducting virtual meetings.

The current zoning and permitted uses of the Southern Pines school sites were discussed briefly.

Lemuel Dowdy made a **motion**, which was seconded by Diane Westbrook, to close the meeting. **The motion carried unanimously.**

The meeting adjourned at 7:48 PM.

Respectfully submitted:

Cindy Williams
Secretary to the Planning Board