

## MINUTES

**Town of Southern Pines Planning Board Regular Meeting  
Douglass Community Center, 1185 W. Pennsylvania Avenue  
July 18, 2019 at 6:00 PM**

The regular meeting of the Town of Southern Pines Planning Board was held on Thursday, July 18, 2019, at 6:00 PM at the Douglass Community Center, 1185 W. Pennsylvania Avenue, Southern Pines, North Carolina.

All Board members were present: Chairman Bill Pate, Vice Chairman Gary Carroll, Mike Saulnier, Diane Westbrook and Benjamin Greene.

Town staff present: BJ Grieve, Planning Director, and Cindy Williams, Secretary to the Planning Board.

Chairman Pate called the meeting to order.

### APPROVAL OF MINUTES:

Gary Carroll made a **motion**, which was seconded by Mike Saulnier, to approve the Minutes of the June 20, 2019 meeting. **The motion carried unanimously.**

### PUBLIC HEARING:

**CU-02-19: Conditional Use Permit for a Major Subdivision on the North Side of Kensington Road Between West Iowa Avenue and West Wisconsin Avenue; Petitioner: Mid-State Development, LLC by Bob Koontz of Koontz Jones Design, Agent**

Mr. Robert Koontz of Koontz Jones Design, agent for Mid-State Development, LLC, has submitted a Conditional Use Permit application requesting approval of a major subdivision for an eight (8) unit townhome development that will consist of four (4) buildings, each with two (2) townhome units. The development is located within the OS (Office Services) zoning district. Pursuant to §2.20 of the Unified Development Ordinance, all major subdivisions require approval of a Conditional Use Permit. The subject property contains 1.10 acres and is identified as PIN: 857108986159 (PARID: 00032340). No street address has been assigned. Per the Moore County tax records, the property owner is listed as Mid-State Development, LLC.

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

Chairman Pate confirmed that there were no conflicts of interest among the members of the Board regarding application CU-02-19.

Mike Saulnier made a **motion**, which was seconded by Diane Westbrook, to open the public hearing. **The motion carried unanimously.**

STAFF REPORT – BJ Grieve, Planning Director:

Mr. Grieve stated that the applicant is proposing the development of eight single-family attached dwelling units on 1.10 acre located between West Iowa Avenue and West Wisconsin Avenue. The property is zoned OS (Office Services) and attached single-family residential units are a permitted use within that zoning district. The applicant is requesting a deviation from the UDO to allow RM-1 setbacks for this project. Four buildings with two units per building are being proposed. Two units will share a driveway off of West Iowa Avenue and two units will share a driveway off of West Wisconsin Avenue with two (2) parking spaces per dwelling unit. The applicant is proposing that Town water and sewer facilities will serve the project. Eight separate connections will be made to an existing clay sewer line and the applicant will be responsible for any damage that occurs as those connections are being made. Mr. Grieve stated that US Fish & Wildlife Service and RLUAC had responded to a request for agency comments regarding this project.

Mr. Grieve requested that staff memorandum CU-02-19 be entered into the record as Exhibit A, comments received from US Fish & Wildlife Service be entered into the record as Exhibit B and comments received from RLUAC be entered into the record as Exhibit C.

A Watershed Protection Permit request for a 5/70 exemption allocation for 1.10 acres has been received and will be considered by the Town Council following approval of the Conditional Use Permit.

Gary Carroll asked who would be responsible for the cost of repairing the clay sewer line if it fails in the future.

Mr. Grieve responded that it would depend on the nature of the failure, but most likely the Town would be responsible as it is a Town line.

APPLICANT PRESENTATION - Mr. Bob Koontz:

Mr. Koontz stated that the applicant wants to limit construction to only eight (8) units. The minimum front setback is 35 feet and the minimum side setback is 15 feet in the OS zoning district. The applicant is requesting a modification to allow 10 foot interior side setbacks in an effort to save existing trees on one side of the property and a 25 foot front setback to preserve existing trees and provide more open space.

Diane Westbrook inquired about the ditch that runs along the property line that is adjacent to the Spartan Blades parcel.

Mr. Koontz responded that the applicant intends to use the ditch for stormwater management. They would like to maintain as much of the vegetation within the ditch as possible. They propose a six (6) foot wooden privacy fence along the property line that is adjacent to the residential properties.

Chairman Pate asked if there had been any conversation with the residents of the adjacent properties regarding the proposed project.

Mr. Koontz responded that they had not spoken with the owners of the residential properties.

Mike Saulnier asked if the applicant planned to install sidewalks along West Iowa Avenue and West Indiana Avenue.

Mr. Koontz responded that there are currently no sidewalks in that area.

Mr. Grieve stated that Kensington Road is included in the Town's sidewalk plan so a reasonable compromise may be for the applicant to set aside a ten (10) foot easement in the event sidewalks are built in that area in the future.

Mr. Saulnier asked if it would be appropriate for the Town to incur the cost of installing the sidewalks.

Mr. Grieve responded that pursuant to the UDO, if a lot that is being developed fronts on a street that is included in the Town's sidewalk plan, the developer is required to install the sidewalk. Otherwise, a ten (10) foot easement is recommended for future sidewalks.

Chairman Pate asked if any type of buffer is required in the OS zoning district.

Mr. Koontz responded that a landscape buffer will be required in addition to the fence that is being proposed.

Chairman Pate stated that he appreciates the effort to save the trees, but expressed concern about the close proximity of the development to the neighboring properties.

Mr. Koontz stated that the fence could be set back from the property line and landscaping installed along the outside but maintaining the exterior side of the fence could be a challenge.

Mr. Grieve stated that the buffer requirement between OS and RM-2 is 20 feet and the applicant is requesting a reduction in the setback to ten (10) feet, so they may want to request a reduction of the buffer to ten (10) feet.

Mr. Koontz stated that pursuant to the UDO a fifty percent reduction in the buffer is permitted if a fence is installed.

Mr. Grieve stated that the fence may not exceed four (4) feet in height from the front corner of the building forward.

Ms. Westbrook asked Mr. Koontz if a red-cockaded woodpecker study would be conducted.

Mr. Koontz responded that there are no woodpeckers on the property and it is not within a foraging habitat, but a study will be conducted and a letter from US Fish and Wildlife Service will be required prior to the removal of any trees.

Mr. Saulnier asked Mr. Koontz if the intent is to construct all of the units simultaneously, and Mr. Koontz responded yes.

Benjamin Greene asked if the fence would be installed regardless of whether the setback was decreased. Mr. Koontz responded that a fence would not be installed if the deviation is not approved.

Chairman Pate asked what extraordinary circumstance exists to justify the deviation from the OS setbacks.

Mr. Grieve responded that determining whether an extraordinary circumstance exists is at the Board's discretion. He recited UDO §2.21.8(B): "*The Town Council may not attach conditions that provide regulatory relief from specific requirements set forth in this UDO unless the Development in question presents extraordinary circumstances that justify the variation from the specified requirements.*"

Mr. Grieve stated that the applicant has stated that the circumstance is the existing trees which is very much in keeping with the spirit of UDO §4.4 *Tree and Ecosystem Protection*.

Mr. Mark Carey, co-owner of the Spartan Blades property, addressed the Board and stated that they are not opposed to the project whatsoever. Only one wall of the ditch was on the Spartan Blades property and it has recently been conveyed to the Town of Southern Pines. Several trees are rooted in that ditch and kudzu has spread extensively throughout the existing vegetation.

Mr. Koontz stated that the applicant intends to clear that area of unwanted vegetation.

Mr. Allen Kelly, present on behalf of an adjacent property owner, addressed the Board and expressed concerns regarding speeding traffic on West Wisconsin Avenue and the number of pedestrians who walk on that street at night and there are no streetlights.

A lengthy discussion ensued regarding the requirement that the applicant install sidewalks and the request for a deviation from required setbacks within the OS zoning district.

Diane Westbrook made a **motion**, which was seconded by Mike Saulnier, to close the public hearing. **The motion carried unanimously.**

#### **PLANNING BOARD ACTION:**

Gary Carroll made a **motion**, which was seconded by Bill Pate, to adopt Attachment "A" to Staff Memorandum CU-02-19 as the Board's findings of fact regarding proposed Preliminary Plat S-22-19 with the following changes:

1. The addition of the following statement to item #3 of Attachment “A”: *Setbacks requested by the petitioner are to be set to RM-1 standards in an effort to save specimen trees.*
2. The addition of the following statement to item #5 of Attachment “A”: *It has been testified that there is a large amount of pedestrian traffic on Wisconsin and sidewalks would be needed there for pedestrian safety.*

**The motion carried by a vote of 4 to 1 with Mike Saulnier being opposed.**

Gary Carroll made a **motion**, which was seconded by Diane Westbrook, to recommend to the Town Council approval of the Preliminary Plat with the following conditions:

1. The request to change the setbacks to 25 feet front and a 10 feet side with a fence on one side is granted based on the extraordinary circumstance of saving several specimen trees. These trees shall be registered as specimen trees and any trees that are removed shall be replaced two to one with similar trees.
2. Sidewalks will be installed the length of the property along West Wisconsin Avenue and an easement will be granted along West Iowa Avenue to the Town for future sidewalks.

**The motion carried by a vote of 4 to 1 with Mike Saulnier being opposed.**

Gary Carroll made a **motion**, which was seconded by Diane Westbrook, to adopt Attachment “B” to Staff Memorandum CU-02-19 regarding the Conditional Use Permit with the following changes:

1. The addition of the following statement to item A of Attachment “B”: *Setbacks as requested by the petitioner are acceptable in an effort to save specimen trees.*
2. The addition of the following statement to item E of Attachment “B”: *There has been testimony that there is a large amount of pedestrian traffic on West Iowa Avenue and sidewalks are needed for pedestrian safety.*

**The motion carried by a vote of 4 to 1 with Mike Saulnier being opposed.**

Gary Carroll made a **motion**, which was seconded by Diane Westbrook, to recommend to the Town Council approval of CU-02-19 with the following conditions:

1. The front setback will be reduced to 25 feet and the side setback will be reduced to 10 feet given the special circumstance of saving specimen trees, and a fence will be installed along one side of the property.
2. Existing trees will be registered by the applicant and any trees that are removed will be replaced two to one with similar trees.

3. A sidewalk will be installed along West Wisconsin Avenue and an easement along West Iowa Avenue will be granted to the Town to allow for a sidewalk in the future.

**The motion carried by a vote of 4 to 1 with Mike Saulnier opposed.**

OLD BUSINESS:

Mr. Grieve stated that member Larry Harward's term had expired and there are currently two openings on the Board.

NEW BUSINESS:

Mr. Grieve stated that the Planning Board will meet in August but there will be no agenda meeting.

There being no further business, the meeting adjourned at 8:36 PM.

Respectfully submitted:

Cindy Williams  
Secretary to the Planning Board