

MINUTES
Town of Southern Pines Planning Board Regular Meeting
October 22, 2020 at 6:00 PM

The regular meeting of the Town of Southern Pines Planning Board was held on Thursday, October 22, 2020, at 6:00 PM and the Douglass Community Center, 1185 W. Pennsylvania Avenue, Southern Pines, North Carolina.

Board members present: Chairman Gary Carroll, Lemuel Dowdy, Kim Wade, Cooper Carter and Andy Bleggi.

Board members absent: Vice Chairperson Diane Westbrook and Benjamin Greene.

Town staff present: B.J. Grieve, Suzy Russell, Lauren Long and Cindy Williams.

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

APPROVAL OF MINUTES:

Lemuel Dowdy made a **motion**, which was seconded by Kim Wade, to approve the Minutes of the September 17, 2020 regular meeting. **The motion carried unanimously.**

PUBLIC HEARINGS:

1. **CU-07-20 and S-36-20: Conditional Use Permit and Major Subdivision Preliminary Plat for Camp Easter Cottages; Applicant: Marcel Goneau of Silver Ridge Holdings, LLC; Tim Carpenter, Agent**

Mr. Marcel Goneau submitted a Conditional Use Permit application and a Major Subdivision Preliminary Plat application requesting approval of a thirteen (13) lot single-family residential development on 13.64 total acres. Pursuant to §2.20 of the Unified Development Ordinance, all major subdivisions require approval of a Conditional Use Permit. The subject parcels are located within the RR (Rural Residential) zoning district and are identified as PIN: 859310277006 (PARID: 00031884) and PIN: 859310279384 (PARID: 00038672). Per the Moore County tax records, the property owner is listed as R. Leonard Seward.

Chairman Carroll stated that the Board was going to invoke UDO §2.5.2 and review the agenda item legislatively.

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

STAFF PRESENTATION – Lauren Long:

Ms. Long addressed the Board and stated that Camp Easter Cottages is located in the ETJ of Southern Pines East of Niagara-Carthage Road and North of Camp Easter Road. The site is

currently zoned RR (Rural Residential). Camp Easter Cottages consists of thirteen (13) single-family lots on approximately 12.87 acres to be developed in a single phase. The subdivision would create lots that are a minimum of 30,000 SF with sizes ranging from .71 of an acre to 1.3 acres, which is compliant with the RR zoning district. The proposed subdivision is located within a High Quality Watershed and the density slightly exceeds what would be allowed without stormwater infrastructure at 8.78 acres. However, the applicant is proposing engineered stormwater so develop at that density would be permitted pursuant to the development standards of the UDO. The applicant is requesting to connect to Town water. The Town Engineer has reviewed the Preliminary Plat and has informed the applicant that he is not going to approve the lateral for the water coming off of Niagara-Carthage Road and would prefer that the waterline extension be within Camp Easter Road and not through the private street within the subdivision. The applicant does not wish to connect to Town sewer and has proposed to use septic. There is no existing infrastructure for stormwater but they are proposing a stormwater area and all infrastructure will be reviewed by the Technical Review Committee during the site plan review process.

Three additional driveway permits would be requested from NCDOT for lots 1, 2 and 13. A request for agency comments was sent to NCDOT and the District Engineer responded that direct driveway access onto Camp Easter Road would not be approved for lots 3 and 12, and he also requested that those driveways be as far from Camp Easter Road as possible to allow for a small queue of cars before any driveways are blocked and to allow stacking before entering Camp Easter Road.

The site is designated as Low Density Residential on the CLRP Future Land Use Map. The intent of Low Density Residential is to provide lots with development densities ranging from one residential unit for every three quarters of an acre to one unit for every five acres and the site is compliant. However, it is not consistent with the category's intent to limit the further subdivision of residential lots between five (5) and twenty (20) acres.

Andy Bleggi asked if the applicant was proposing common septic or individual septic on each lot.

Ms. Long responded that she thought the applicant was proposing individual septic.

Nick Robinson responded that individual septic on each lot was proposed.

APPLICANT PRESENTATIONS:

Attorney Nick Robinson

Mr. Robinson addressed the Board and stated that he was present on behalf of the applicant, Marcel Goneau of Silver Ridge Holdings, LLC. The applications for a Conditional Use Permit and a Preliminary Plat were reviewed and deemed complete and they believed that all of the criteria set out in the UDO for the approval of a Conditional Use Permit and a Preliminary Plat had been readily met and it is quite obvious that this is a thirteen (13) lot subdivision on a Rural Residential zoned piece of land and it is fully compliant with actual zoning.

Tim Carpenter

Mr. Robinson called Mr. Tim Carpenter as his first witness.

Mr. Robinson: Please state your name and address for the record.

Mr. Carpenter: Tim Carpenter with LKC Engineering, 140 Aqua Shed Court, Aberdeen, NC.

Mr. Robinson: What is your job title?

Mr. Carpenter: I am one of the owners and engineers.

Mr. Robinson: Length of time at this job?

Mr. Carpenter: I have been there for eight years.

Mr. Robinson: Prior related experience?

Mr. Carpenter: I had about 19 years of prior experience with another consulting firm doing similar work.

Mr. Robinson: Can you give a brief description of your educational background?

Mr. Carpenter: I have an AAS in Land Surveying Technology and a BCET from UNC Charlotte.

Mr. Robinson: Do you have any prior experience in site design?

Mr. Carpenter: Yes.

Mr. Robinson: Is it correct to say that this application is for a Conditional Use Permit required for a major subdivision under §2.21 of the UDO?

Mr. Carpenter: That is correct.

Mr. Robinson: Is it also correct to say that this application is for approval of a Major Subdivision Preliminary Plat under §2.20.5 of the UDO?

Mr. Carpenter: Yes.

Mr. Robinson: Is it correct to say that both applications involve the same 13 lot subdivision known as Camp Easter Cottages?

Mr. Carpenter: That is correct.

Mr. Robinson: Can you briefly describe your history of experience with this particular project?

Mr. Carpenter: We have worked on this project with the applicant since its inception. We have done conceptual planning and have meet with some of the stakeholders and some of the adjoining property owners so they have been involved since Mr. Goneau started.

Mr. Robinson tendered Tim Carpenter as an expert in the fields of site plan design and public engineering.

Chairman Carroll accepted Mr. Carpenter as an expert witness.

Mr. Robinson: Tim, did you assist with the preparation of the Preliminary Plat application that was filed on or about September 14, 2020?

Mr. Carpenter: I did.

Mr. Robinson: Are you familiar with the entirety of the Preliminary Plat application?

Mr. Carpenter: I am.

Mr. Robinson: To the best of your knowledge, is the Preliminary Plat application complete?

Mr. Carpenter: Yes.

Mr. Robinson: The application was deemed complete on September 21, 2020, is that correct?

Mr. Carpenter: Yes.

Mr. Robinson: Are you familiar with the proposed site and its location in the Southern Pines ETJ?

Mr. Carpenter: I am.

Mr. Robinson: Have you been to the site?

Mr. Carpenter: I have.

Mr. Robinson: Approximately how many times?

Mr. Carpenter: Probably five times.

Mr. Robinson: Are you familiar with the surrounding properties and uses near the site?

Mr. Carpenter: I am.

Mr. Robinson: Have you made yourself familiar with the Southern Pines UDO, particularly the requirements for a valid Preliminary Plat application set forth in §2.19?

Mr. Carpenter: Yes.

Mr. Robinson: Have you reviewed the Preliminary Plat application in light of those UDO requirements?

Mr. Carpenter: Yes.

Mr. Robinson: To the best of your knowledge does the Preliminary Plat application meet all of the requirements of the UDO?

Mr. Carpenter: We believe it does, yes.

Mr. Robinson: Section 2.20.5(H) of the UDO sets forth the six criteria for the approval of a Preliminary Plat application, is that correct?

Mr. Carpenter: Yes.

Mr. Robinson: I am going to read the criteria and after each if you could just very briefly explain to the Board your reasons for concluding that each of those criteria is met.

Mr. Carpenter: Okay.

Mr. Robinson: The first criteria for a Preliminary Plat is that the application is consistent with the approved sketch plat if that is applicable.

Mr. Carpenter: Yes, we believe it is in that we followed the checklist for the Preliminary Plat application.

Mr. Robinson: The Preliminary Plat is consistent with the Comprehensive Plan as well as any other adopted plans for streets, alleys, parks, playgrounds and public utility facilities.

Mr. Carpenter: We believe it is consistent.

Mr. Robinson: Did you submit a narrative with the application that describes how it is consistent with the pending and approved plans of the Town?

Mr. Carpenter: We did.

Mr. Robinson: Does the proposed subdivision comply with the UDO and applicable state and federal regulations?

Mr. Carpenter: Yes, we believe that it complies with all of the above.

- Mr. Robinson: If it is approved and you come back with site plans obviously you are going to comply with the various provisions in that regard as well?
- Mr. Carpenter: That is correct.
- Mr. Robinson: Is the proposed subdivision, including its lot sizes, density, access and circulation compatible with the existing and/or permissible zoning and future land uses of adjacent property?
- Mr. Carpenter: We think it is and its nature as low density is in keeping with the current zoning.
- Mr. Robinson: The proposed subdivision will not have detrimental impacts on the safety or viability of permitted uses on adjacent property?
- Mr. Carpenter: We do not believe it will have any detrimental impacts.
- Mr. Robinson: The proposed public facilities are adequate to serve the normal and emergency demands of the proposed development and to provide for the efficient and timely extension to serve future development.
- Mr. Carpenter: Yes, we believe through correspondence with the TRC, the Town Engineer and the extension of utilities to serve it that the facilities are adequate and we have complied with their request regarding water line layout and we will comply with all of the local, county and state regulations for septic design and we have also responded to and noted the NCDOT comments.
- Mr. Robinson: Describe for the Board how it is that you have responded to and complied with the Town Engineer's comments with respect to the water plan.
- Mr. Carpenter: The current plan shows the water line running along Camp Easter Road into the neighborhood and looping back to Camp Easter Road pursuant to the looping requirement of the Town of Southern Pines. In an attempt to serve lot 13 and not create a dead end line we extended a service line to what would have been an easement. The Town Engineer came back and said that he would prefer not to have the water service in a deeded easement but to serve lot 13 with a 2" water line extension to lot 13 per the Town standards so they have made modifications to the plat. It is not a problem for them to extend that line and service as requested by the Town Engineer.
- Mr. Robinson: So you have done exactly what the Town Engineer has asked for that fix?
- Mr. Carpenter: Yes.
- Mr. Robinson: Did the District Engineer or someone from the Department of Transportation have a comment as well about driveway access?

Mr. Carpenter: Correct. One of the comments was to locate the driveway for lot 1 as far north on the lot as possible and it is laid out as a condition in the staff report that they would have a driveway access as far north on that lot as possible. Lots 3 and 12 would be required to access internally from the cul-de-sac street. Lot 2 would also be located as far West and lots 3 and 12 need to be located on the North side of the lots to provide the stacking distance that NCDOT requires.

Cooper Carter asked Mr. Carpenter to explain how lot 2 would have a driveway that does not come out on Camp Easter Road.

Mr. Carpenter responded that lot 2 will have a driveway. NCDOT requested that the driveway for lot 1 be located as far north on Camp Easter Road as possible and lots 3 and 12 have to be accessed from the internal street. Any of the driveways need to be positioned as far away from the intersection as possible, particularly lot 2.

Lemuel Dowdy asked if lots 3 and 12 will have driveways.

Mr. Carpenter responded that driveway access to those lots will be from the internal street. The only lots that will have driveways on Camp Easter Road will be lots 2 and 13 and lot 1 will front on Niagara-Carthage Road.

Mr. Robinson: With those changes and accepting the condition of the Conditional Use Permit that Planning staff has recommended to incorporate the changes requested by the NCDOT Engineer, would that meet the recommendations of the DOT and of the staff?

Mr. Carpenter: We feel like it has met both recommendations.

Mr. Robinson: Having been through those six criteria and based on your knowledge and experience, do you have an opinion as to whether the Preliminary Plat as proposed and then modified during the hearing meets the six criteria for approval of a Preliminary Plat established under UDO §2.20.5?

Mr. Carpenter: We feel like it meets the criteria.

Mr. Robinson: Are you familiar with the Conditional Use Permit application filed on the same day?

Mr. Carpenter: Yes.

Mr. Robinson: Did you assist in its preparation?

Mr. Carpenter: I did.

Mr. Robinson: To the best of your knowledge, is the Conditional Use Permit application complete?

Mr. Carpenter: Yes.

Mr. Robinson: In fact, it was deemed complete on or about September 21st, is that correct?

Mr. Carpenter: That is correct.

Mr. Robinson: To the best of your knowledge, does the Conditional Use Permit application meet all of the requirements of the UDO?

Mr. Carpenter: We believe it does, yes.

Mr. Robinson: Similar to what we did with the Preliminary Plat, §2.21.7(A) – (F) sets forth the six criteria for the approval of a Conditional Use Permit, is that correct?

Mr. Carpenter: That is correct.

Mr. Robinson: *(A) The proposed conditional use shall comply with all regulations of the applicable zoning and any applicable supplemental use regulations. Does it?*

Mr. Carpenter: Yes.

Mr. Robinson: *(B) The proposed conditional use shall conform to the character of the neighborhood in which it is located and not injure the use and enjoyment of property in the immediate vicinity for the purposes already permit. In your opinion, does it accomplish that?*

Mr. Carpenter: We believe so, yes.

Mr. Robinson: Does that have to do with the fact that there are other single-family lots nearby?

Mr. Carpenter: Yes. The surrounding neighborhoods are single-family and some existing farms, but all in Rural Residential zoning and we do not intend to change the zoning.

Mr. Robinson: *(C) Adequate public facilities shall be provided as set forth herein.*

Mr. Carpenter: From a facilities standpoint, we have been through review with the Town Engineer and Town staff as far as the adequacy of the water service and we have had soil scientist work done on the site for the private septic systems.

Mr. Robinson: *(D) The proposed use shall not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district or substantially diminish or impair the property values with the neighborhood. Do you have an opinion on whether or not that criteria is met?*

Mr. Carpenter: We feel as though we meet that criteria.

Mr. Robinson: And no concerns about damaging the property value of surrounding properties?

Mr. Carpenter: No I am not an appraiser but it is in keeping with the existing zoning.

Mr. Robinson: (E) The establishment, maintenance or operation of the proposed use shall not be detrimental to or endanger the public health, safety, comfort or general welfare.

Mr. Carpenter: We feel like it does none of the above and with public water as well as complying with DOT regulations we are trying to make this as safe as possible.

Mr. Robinson: (F) The public interest and welfare supporting the proposed use shall be sufficient to outweigh individual interests that are adversely affected by the establishment of the proposed use.

Mr. Carpenter: I believe we meet that condition.

Mr. Robinson: Based on your knowledge, do you have an opinion as to whether the development as proposed meets the six criteria for a major subdivision Conditional Use Permit?

Mr. Carpenter: We believe it does, yes.

Mr. Robinson stated that Planning staff had recommended as conditions of approval of the Conditional Use Permit that the driveways for lots 3 and 12 be located so as to provide access internally to the subdivision by connecting to the proposed private street and not directly access Camp Easter Road and you have already mentioned that we have accepted that, and that the driveways for lots 1, 2 and 12 be located as far away as possible from Camp Easter Road to allow for stacking of cars and we have accepted that.

Mr. Carpenter: Yes.

Mr. Robinson: And the last condition is that all extensions of the water system be made within the right-of-way for Camp Easter Road. No service laterals are to be created that do not access water from the extension of the line that is to be located on Camp Easter Road.

Mr. Carpenter: Correct, with the exception of the line to run along the subdivision street.

Mr. Robinson: So you have reviewed those conditions and to your knowledge are those conditions acceptable to the applicant?

Mr. Carpenter: Yes, we have discussed those.

Mr. Robinson: Do you have anything else to add by way of description or information that you would like the Board to hear?

Mr. Carpenter: We have done our best in keeping with the UDO, the underlying zoning district, low density development, in complying with watershed rules and treating watershed as it should be treated and it is in keeping with the surrounding Rural Residential zoning.

Andy Bleggi asked if they had done a soils analysis and if there are any wetlands on the site.

Mr. Carpenter responded that there are no wetlands on site. They do have a soils report related to the seasonal high water table for the stormwater pond as well as suitability for septic.

Mr. Bleggi asked if all of the lots are suitable for septic.

Mr. Carpenter responded that all of the lots are suitable. Lot 1 has marginal soils which means there could be some alternative system or an extension of the length of septic drain lines.

Mr. Bleggi asked if there is any chance of contamination.

Mr. Carpenter responded no and that the report was done by Soil Scientist Hal Owen.

Travis Fluett

Mr. Robinson called Travis Fluett of Kimley-Horn as his next witness.

Mr. Robinson: State your name and address for the record please.

Mr. Fluett: Travis Fluett with Kimley-Horn Associates, 421 Fayetteville Street, Ste. 600 Raleigh, NC.

Mr. Robinson: What is your position at Kimley-Horn?

Mr. Fluett: I am a Senior Traffic Engineer.

Mr. Robinson: How long have you been at that firm?

Mr. Fluett: Sixteen (16) years.

Mr. Robinson: Can you give a very brief overview of your educational background?

Mr. Fluett: I have a Masters in Transportation Engineering from the University of Texas in Austin and I am a Professional Engineer in the State of North Carolina.

Mr. Robinson: Do you have any prior experience in preparing trip generation analyses for residential projects like this one?

Mr. Fluett: I have prepared hundreds of trip generation analyses for residential and commercial projects throughout the state.

Mr. Robinson: Have you been engaged in that capacity for this project by the applicant?

Mr. Fluett: Yes sir.

Mr. Robinson: How long have you or your firm been working on this project?

Mr. Fluett: Approximately two (2) months.

Mr. Robinson: What tasks has your firm completed for the applicant on this project?

Mr. Fluett: We have prepared a trip generation analysis.

Mr. Robinson tendered Travis Fluett as an expert in the field of Traffic Engineering.

Chairman Carroll accepted.

Mr. Robinson: You mentioned that your firm has prepared a trip generation analysis for this particular site and this plan.

Mr. Fluett: That's correct.

Mr. Robinson: What was your role in the preparation or review of the trip generation analysis for the site?

Mr. Fluett: I provided the quality review for this project.

Mr. Robinson: And are you familiar with its findings and conclusions?

Mr. Fluett: I am.

Mr. Robinson introduced the trip generation analysis into the record and stated that it is in the application packet as well.

Mr. Robinson: Have you made yourself familiar with the Town of Southern Pines UDO, particularly any requirements related to traffic management?

Mr. Fluett: Yes I have.

Mr. Robinson: Are you familiar with the proposed site plan at least with regard to traffic related aspects?

Mr. Fluett: Yes I am.

Mr. Robinson: Have you ever been to the geographic area covered by the traffic analysis?

Mr. Fluett: Yes I have.

Mr. Robinson: Based on your traffic generation analysis and the other information and experience at your disposal pertinent to this project, do you have an opinion based on a reasonable degree of engineering certainty as to whether this site is appropriate for the proposed project based on the traffic considerations?

Mr. Fluett: It is my opinion that the site is appropriate for the proposed project based on traffic considerations.

Mr. Robinson: Do you have any reservations about that opinion?

Mr. Fluett: I do not.

Mr. Robinson: Do you have an opinion as to whether this project as proposed will have a detrimental impact on the safety or viability of permitted uses on adjacent properties?

Mr. Fluett: Yes I do and it is my opinion that this project will not have a detrimental impact on the safety or viability of permitted uses on adjacent properties.

Mr. Robinson: Do you have an opinion as to whether the project as proposed will have a detrimental impact on or endanger the health, safety, comfort or general welfare?

Mr. Fluett: Yes I do. It is my opinion that the project will not have a detrimental impact or endanger public health, safety, comfort or welfare in general.

Mr. Robinson: Could you, for the sake of the Board, give a quick summary and overview of what the trip generation analysis says?

Mr. Fluett: The trip generation analysis says that the proposed 13 detached single-family dwelling units will generate approximately 160 peak hour daily trips – that is approximately 80 in and 80 out over the course of the day with 14 trips in the AM peak hour and 14 trips in the PM.

Mr. Robinson: Relatively speaking, how significant is it to have 14 trips during the peak hour in terms of causing any congestion or any traffic problems?

Mr. Fluett: That is a negligible amount of trips. The general threshold for requiring a traffic impact analysis is 100 peak hour trips.

Mr. Robinson: So you have had to do a much more significant analysis for 100 trips and this is only 13 or 14 during the peak hours.

Mr. Fluett: Correct.

B.J. Grieve asked Mr. Fluett if the trip generation analysis that was provided during the hearing was the same one that was submitted with the application that staff had received.

Mr. Robinson responded that he thought it was.

Mr. Grieve stated that the trip generation analysis would be added to the packet going forward.

Mr. Fluett stated that it was possible that the trip generation analysis was submitted to James Michel directly.

Mr. Bleggi asked Mr. Fluett if he had the counts for Camp Easter Road and Niagara-Carthage Road.

Mr. Fluett responded to Mr. Bleggi's question regarding traffic on Camp Easter Road and Niagara-Carthage Road by stating that daily trips on Camp Easter Road just east of Niagara-Carthage Road was 590 vehicles a day in 2015, which is the latest data available, and on Niagara-Carthage Road the daily volume is 2,800 as of 2019.

Mr. Robinson stated with regard to compliance with the Comprehensive Long Range Plan, he believed that staff agreed that the project is consistent with the CLRP in almost all respects and staff had mentioned only one item where there would be a possible conversation. The Comprehensive Plan lays out visions, goals and policies. The project squarely meets the vision that housing will be available to meet the diverse needs of Southern Pines residents. Low density single-family residential on the outskirts of Town and within the ETJ is appropriate and will diversify the available housing inventory in Southern Pines. It will also further the vision of connecting housing with educational opportunities as the neighborhood will only be 1.5 miles from McDeeds Creek Elementary School. The Comprehensive Plan also lays out goals that the Town is trying to establish and this project is consistent with, among others, Goal G-1 which is Community Well-Being, G-11 Housing and G-13 Growth. Then it lays out policies. The project is consistent with, among others, Policy P-2 about creating neighborhoods, P-4 about future land use, P-12 about new housing choices and making those available, P-14 connecting those housing choices to education, and P-17 connecting housing to public utilities which they will be doing with the water system.

Mr. Robinson stated that this land is already zoned Rural Residential and we know the way it is designed it meets all of the requirements of the zoning district so the only question for the Board is if it is also consistent with the visionary statement of what the future land use ought to be for Southern Pines. That is set out in the Future Land Use portion of the Plan. They believe the project is entirely consistent with the future land use categories and the map that are set out in Section 4 of the Plan. The project is located within the *Low Density Residential* category on the Future Land Use Map, which is defined as including single-family neighborhoods with development densities between three quarters of an acre and five acres per unit so all of these units are right in the sweet spot of that range so it is quite clearly compliant and consistent with the description of the kinds of things that are supposed to happen in this place on the Future Land Use Map. Another element is that section of the Plan regarding Low Density Residential which says

the following: *Where residential development is already established at densities between five and 20 acres per unit this designation anticipates that those properties will not be subdivided further.* “Further” is a key word as that sentence actually means that where you have had residential development in an area – in other words you have taken rural farmland and developed it into residential lots - and you have already developed it into 5 to 20 acre lots, they don’t want you coming back later and re-subdividing the 5 or 20 acre lots further. That is not the case here. This is a situation where it hasn’t been residential development in this area and they are requesting the first ever subdivision of these tracts. He would respectfully disagree with Ms. Long but it is also very, very important that we not focus too much on that because the general requirement is that it be generally consistent with the Future Land Use Plan and he mentioned 10 to 13 ways in which it is and we agree on all of those and there is one where there is an interpretation question which he did not think, even if went the wrong way, would mean that it was not consistent with the Plan so he thinks it meets that in all respects.

Mr. Robinson stated that one of the criteria is lot sizes and whether or not the subdivision, including lot sizes, density, access and circulation is compatible with existing and/or permissible zoning and also with the other existing zoning around it. Mr. Robinson provided a map showing the proposed subdivision showing what currently exists around the property and stated that there are 14 single-family residential lots adjacent or in close proximity, all of which range from .6 acres to 1.9 acres and these lots range from .7 acres to 1.3 acres so this subdivision is entirely consistent with the surrounding area. Mr. Robinson stated that he had been before the Board many times and he hoped they knew that he had looked at this carefully and concluded that it is obviously within the criteria that needs to be met in order to approve it.

Mr. Dowdy asked Ms. Long if she wanted to respond to the issue of further subdivision.

Ms. Long responded that she did not necessarily contest the determination regarding further subdivision and she had not done a title search to determine whether any subdivision had occurred on the site previously. Where the difference could be is as Mr. Robinson said, in the determination of further subdivision, whether or not it had originally been created that way and subdivided over the years and it would be further subdivision but the fact is that there is residential development existing on the lots right now. In all honesty, looking at the surrounding properties, it isn’t inconsistent with what has been subdivided so whether or not it is a determination that it had been subdivided previously and there could be no further subdivision for those lots that are there currently, technically by the black and white of the language, she placed it as inconsistent because of the black and white but she does agree that it would be consistent with the what is out there right now.

Cooper Carter made a **motion**, which was seconded by Andy Bleggi, to close the public hearing. **The motion carried unanimously.**

PLANNING BOARD ACTION:

Cooper Carter made a **motion**, which was seconded by Andy Bleggi, to adopt Attachment “A” of the staff report as their findings of fact regarding proposed Conditional Use Permit CU-07-20. **The motion carried unanimously.**

Cooper Carter made a **motion**, which was seconded by Lemuel Dowdy, to recommend approval of Conditional Use Permit CU-07-20 to the Town Council with the following staff recommended conditions:

1. The driveways for lots 3 and 12 will be located so as to provide access internally to the subdivision by connecting to the proposed private street and not directly accessing Camp Easter Road.
2. Driveways for lots 1, 2 and 13 will be located as far away as possible from Camp Easter Road to allow for stacking of cars trying to turn onto Camp Easter Road from within the subdivision without blocking any driveways and the driveway for lot 1 be located as far away as possible from the intersection of Niagara-Carthage Road and Camp Easter Road.
3. All extensions of the Town water system will be made within the right-of-way for Camp Easter Road. No service laterals are to be created that do not access water from the extension of the main line that is to be located on Camp Easter Road.

The motion carried unanimously.

Cooper Carter made a **motion**, which was seconded by Lemuel Dowdy, to adopt Attachment “B” of the staff report as their findings of fact regarding proposed Preliminary Plat S-36-20. **The motion carried unanimously.**

Cooper Carter made a **motion**, which was seconded by Kim Wade, to recommend approval of Preliminary Plat S-36-20 to the Town Council. **The motion carried unanimously.**

2. **OA-03-20: Text Amendments to Exhibits 3-6 and 3-7 of the Southern Pines Unified Development Ordinance (UDO) to increase maximum building height to 40 feet in Multi-Family Residential Zoning Districts**

Ms. Lily Camina-Vick has submitted a request to amend Exhibit 3-6 and Exhibit 3-7 of the Southern Pines Unified Development Ordinance (UDO) to increase the maximum height of a principal structure in the RM-1 and RM-2 Residential Mixed Housing zoning districts from 35 feet to 40 feet. A corresponding revision would also be made to the “Maximum Height” column in Exhibit 4-1 for the RM-1 and RM-2 zoning districts.

STAFF PRESENTATION – B.J. Grieve:

Mr. Grieve addressed the Board and stated that the applicant has been working on the design for three multi-family buildings to be developed in Forest Creek. As part of the application for an Architectural Compliance Permit, the applicant requested a building height that exceeded the 35 ft. maximum. Unfortunately, Planning staff had to recommend that the height increase not be allowed without a variance. When the project went before the Town Council for consideration, the Council did not have an issue with a height of up to 40 ft. but their hands were tied. Planning staff reached out to all Town departments to find out if there were any concerns regarding a

potential increase in building height from 35 ft. to 40 ft. in a multi-family zone and there were none so he reached out to the applicant to ask if she would be interested in submitting a text amendment. The changes would apply in the RM-1 and RM-2 zoning districts. A five foot increase makes a big difference to designers but has a pretty negligible effect on overall mass and building form.

Chairman Carroll asked if the original 35 ft. maximum height standard was strictly for fire safety reasons.

Mr. Grieve responded that 35 ft. is a very common building height restriction that is ubiquitous in zoning and it does have a lot to do with ladder truck design and a variety of things that are now somewhat outdated due to modern fire codes with regard to construction of multi-family structures. The Fire Marshal stated that sprinkling the building and other mechanisms are now available to ensure safety.

Cooper Carter asked Mr. Grieve if he saw any unintended consequences of this and if it would set a precedent or create an issue in other situations where changing this would make a difference.

Mr. Grieve responded that when this was being discussed some suggested a maximum height of 45 ft. to give a little more flexibility. Planning staff really looked at it and suggested an increase to 40 ft. because a five (5) foot increase allows for a different roof pitch, etc. that is more aesthetically pleasing but it does not allow four or five story buildings, which would have a dramatic impact on character. Staff is very comfortable with a maximum height of 40 ft. and does not foresee a lot of unintended consequences in other locations that are zoned RM-1 and RM-2 that are more visible, such as along the highway for example, and that is why staff is very comfortable with a five (5) foot increase at this time.

APPLICANT PRESENTATION – Lily Camina-Vick:

Ms. Camina-Vick addressed the Board and stated that the 35 ft. maximum building height in the RM-1 and RM-2 zoning districts limits design to long and linear buildings which is not economically efficient for multi-family housing. The increase to 40 ft. would affect roof slope, which is an important characteristic when creating the architectural style of buildings and it would provide more character and architectural possibilities in the original design stages, allowing for more building styles in the community.

Chairman Carroll asked Ms. Camina-Vick if she had any idea why this had not been brought up previously.

Ms. Camina-Vick responded that she did not know but that she had heard this was also an issue for another multi-family development in Southern Pines recently.

Mr. Grieve stated that The Legends at Morganton Park and the Tyler's Ridge apartments are three-story, multi-family buildings that were developed within the last five to six years and all are in excess of the 35 ft. building height. The Legends is a Planned Development which allowed an increased building height. Tyler's Ridge requested an increase in height as part of a Conditional

Use Permit by presenting an extraordinary circumstance. The developer of Eagle Landing Apartments, which is currently under construction, specifically requested a height of 41 ft. Ms. Camina-Vick is encountering the same challenges and multi-family is still restricted to the 35 ft. height.

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

PLANNING BOARD ACTION:

Lemuel Dowdy made a **motion**, which was seconded by Andy Bleggi, that after considering the criteria for text amendments found in UDO §2.17.10, the Planning Board finds that the requested text amendments are consistent with the Comprehensive Long Range Plan and the Planning Board adopts the Resolution that is included as Attachment “A” in the staff memorandum for OA-03-20 with the addition of the word “development” after “multi-family” in the fourth line from the bottom of the last paragraph. **The motion carried unanimously.**

Lemuel Dowdy made a **motion**, which was seconded by Andy Bleggi, to recommend approval of OA-03-20 to the Town Council. **The motion carried unanimously.**

3. **Z-04-20: Request a conditional zoning district rezoning of seven (07) existing parcels from OS to GB-CD for the purpose of developing an indoor self-storage building; Applicant: Will Huntley of Longleaf Pines Storage, LLC by Tim Carpenter of LKC Engineering, PLLC, Authorized Agent**

Mr. Tim Carpenter, on behalf of Longleaf Pines Storage, LLC, is requesting to rezone seven (7) parcels totaling 3.05 acres from OS (Office/Service) to GB-CD (General Business Conditional District) to allow an indoor self-storage facility (LBSC Code 2321) as the permitted use. Per the Moore County tax records, the subject parcels identified as PIN: 857108887345 (PARID: 96000398); PIN: 857108888362 (PARID: 00039171); PIN: 857108889334 (PARID: 00033309); PIN: 857108980445 (PARID: 00039172); and PIN: 857100981555 (PARID: 20190151) are owned by TAMS Properties, LLC and the subject parcels identified as PIN: 857100982505 (PARID: 20190150) and PIN: 857100981643 (PARID: 20190149) are owned by Tony T. Fairley and Sandra D. Fairley.

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

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

STAFF PRESENTATION - Suzy Russell:

Ms. Russell addressed the Board and stated that Mr. Tim Carpenter of LKC Engineering, on behalf of Longleaf Pines Storage, LLC, was requesting a Conditional District rezoning of seven (7)

existing lots totaling 3.05 acres. The subject properties are located between US Highway 1 and SW Service Road and are currently zoned Office/Service in which self-storage is not a permitted use. The applicant is proposing to develop an 83,000 SF multi-level storage facility as the sole use. The subject properties fall within the West Southern Pines Overlay District and are identified as Commercial on the Future Land Use Map. The applicant is proposing General Business as the base zoning in order to propose the self-storage land use as that use is allowed in GB zoning. The properties also fall within the Urban Transition Highway Corridor Overlay District and the applicant is requesting to build to the development standards of that overlay district. The development as proposed is compliant with those standards as well as the standards found in Chapter 4 of the UDO. The requirements of the underlying zoning district cannot be relaxed in a conditional zoning district. Policy P-2 of the Comprehensive Long Range Plan addresses neighborhoods and is to ensure that new development is compatible with the overall scale, architectural, transportation and public space characteristics of the neighborhood in which it occurs. The Town does not want growth and change that would in any way degrade the quality of existing neighborhoods so the Board will need to determine if the development of a self-storage building would have adverse impacts on neighboring lands, if this development is substantially consistent or inconsistent with the uses of the surrounding area, if the land is suitable as it is presently zoned, or if there is possibly a substantial need or purpose for a storage facility at this location. The project is consistent with the UDO and the CLRP and it is designated as *Commercial* in the CLRP. Existing utility infrastructure is adequate to serve the development. Future sidewalks are proposed for this area. Hale Street is a public road and SW Service Road is an NCDOT road. RLUAC, as well as the Town Fire Marshal and the Town Engineer, responded to a request for agency comments, which the applicants will address in their presentation. The applicant submitted a conceptual landscape plan and elevation drawings prior to the hearing. Ms. Russell recommended that the Board hear from the applicant to analyze the proposal and determine if the Board needs to request any other reasonable conditions if they think there might be negative impacts that need to be mitigated. If the Board does request additional conditions, the applicants need to be asked if they are in agreement with the conditions because the rezoning is a voluntary action.

APPLICANT PRESENTATIONS:

Attorney Bob Hornik addressed the Board and stated that he was present on behalf of Longleaf Pines Storage, LLC and that staff had determined that the proposed zoning is consistent with the Comprehensive Plan, that the application is complete and the project as proposed meets the standards for the district to which the applicant proposes to rezone the property. The property consists of seven (7) individual parcels ranging in size from .07 to 1.6 acres. Some of those lots will not be developed individually. They will be developed together whether it is through this application or some other application. The is located in an area that is shown on the Future Land Use Map as Commercial so the Town Council has at some point in time, presumably with the Planning Board's recommendation, determined that this property should be developed for commercial use. The parcels are currently vacant with the exception of a dilapidated structure on one of the parcels which would be removed if the property is developed as proposed.

Mr. Hornick addressed the criteria set forth in UDO Sec. 2.17.9 and how the proposal satisfies those criteria. Staff has already indicated and the application demonstrates pretty clearly that the

proposal is consistent with the Comprehensive Long Range Plan as the proposed use is consistent with Commercial use. The second criteria is whether there will be adverse impacts on neighboring lands. They know that the neighbors to the northwest did not want any kind of access to the property from Hale Street but the Fire Marshal asked that there be a second access at the rear of the property for fire safety purposes. The land itself is pretty heavily vegetated and the plan calls for as much vegetation as possible along Hale Street to remain except where it needs to be disturbed for the development and the creation of the access apron. The plans meet all of the buffer requirements that are applicable to the district. They are trying to maintain the view along Hale Street as much as possible and have as little impact as possible on the neighbors to the north and west.

Another criteria is suitability of the property as currently zoned. In the Office/Service (OS) district the indoor storage use is not a permitted use but it would be allowed if the property was rezoned to General Business Conditional District. They realize that the property is on the southeastern edge of the West Southern Pines Overlay District. The proposed use with the investment of millions of dollars to develop the property will take a property that is not currently being put to any kind of economically beneficial use and create an economically beneficial use while at the same time creating as much as they can a building that will not detract from but rather add to the area. This property is going to be developed for commercial purposes somewhere along the line and it is their hope that this proposal will satisfy the Planning Board, Town Council and the neighbors as much as possible.

They are trying to maintain the residential nature of S. Hale Street. The use itself, according to the traffic analysis, will only generate 63 trips in and out per day, which is less than there would be if the property was developed as Residential with six or seven homes. You would probably have more trips per day generated by those homes with 8 to 10 trips per day per residence than will be generated by this particular use and by design all of the traffic in and out of the property will be on SW Service Road and not on Hale Street. They have done the best they can in designing this project to accommodate the neighbors' concerns and also to make it an aesthetically pleasing storage facility.

Mr. Tim Carpenter addressed the Board and stated that he was present on behalf of the applicant and that his firm had prepared the rezoning request. They had to do some level of detailed design to ensure that the site would work. The topography of the site generally falls from the southwest to the northeast from about 539 feet to about 505 feet so there is a little over 30 feet of fall across the site. The site is currently wooded and there are no wetlands or streams existing on the site. The property is located in a High Quality Watershed and they will capture the stormwater. Water and sewer utilities are available from the Town.

The UDO states that the General Business zoning district is designed to accommodate highway-oriented retail, commercial service businesses and in some limited cases light manufacturing to serve the entire Town and surrounding area. It also talks about access onto main highway corridors.

There will be two entrances off of SW Service Road. There is a 50 ft. landscape buffer with a 75 ft. setback off of SW Service Road. There is a 25 ft. side yard setback and a landscape buffer.

The stormwater management area will be located to the north of the site and will discharge into an existing storm drain. There is a pretty significant 50 ft. side yard buffer where it abuts residentially zoned properties and there is also a 50 ft. rear yard buffer. They are limited to 65% impervious surface and the square footage of the building cannot exceed more than 30% of the site. The site is very well buffered from S. Hale Street, SW Service Road and US 1. The Town of Southern Pines landscape buffer requirements are pretty demanding. The whole front of the site, with the exception of the driveway access, will be a 50 ft. landscape buffer. The rear of the site will also be landscaped and there will be a 15 ft. landscape buffer on the south side and a 25 ft. landscape buffer on the north side. They will leave the existing vegetation to the extent that they can but when you are developing a building of this size on a site with a lot of topography there will be some grading so they will be removing some trees. The Town's landscape requirements are pretty rigorous so there will be landscaping between the two driveway accesses on SW Service Road, the north property line and also on the S. Hale Street side.

Fire access will be through a siren activated gate so the only people who will be able access that gate will be emergency services personnel and otherwise it will remain closed. Only 40% of parking for the site can be in front of the building in the overlay district. The other 60% must be on the side and they have 35% in the front and 65% on the side. The number of parking spaces required is one space per 50 storage units so 12 spaces have been provided with 33% of those spaces being in the front and 67% on the side. They are requesting a waiver from the requirement to construct a pedestrian sidewalk along SW Service Road as that is a DOT street and there is no connectivity. They max out on impervious surface at 65% and maximum building coverage of 30% of the site. Mr. Travis Fluett and his firm prepared the trip generation analysis and can speak to that as questions arise. There are no open space requirements in this district but the buffering will be pervious surface. Mr. Carpenter provided elevations of the building and stated that the building is in compliance with the Town's architectural standards. This is a one-story building on the back facing S. Hale Street and there will be a retaining wall.

Mr. Robert High of Robert High Development and Pinnacle Storage addressed the Board and stated that he has been in the self-storage industry since 1989. They have full-service employees and are open seven days a week because that is the demand of the industry. They have spent a great amount of time with their architect to make sure they have met all of the design requirements. As Mr. Carpenter pointed out, they had a driveway on Hale Street but the neighbors said they did not want that and they listened and eliminated that access completely but the Fire Marshal is requiring them to have that emergency access. He would estimate 40 trips per day and the average stay is 17 minutes. When you hear 600 units you think that is a lot of units or think this is a huge building, but the average size unit is 10 x 10. They will have smaller units, some larger units and some ADA compliant units available. There will be three entrances on the front of the building.

One of the questions he was asked during the neighborhood meeting was what they will do for the community and the number of employees that will be on site. They will have two employees. Mr. High listed several organizations and programs that his business supports. He stated that Will Huntley is a business partner and a local resident. There is a great demand for self-storage in this region and it is considered an essential business.

Kim Wade asked Mr. High if he had met with the residents that live on Hale Street.

Mr. High responded that he did not know where the six to eight residents who attended the meeting lived but when they voiced their concerns they immediately removed the Hale Street entrance. They felt like that entrance would be user friendly for renters of units on that floor but they put that aside at the residents' request.

Ms. Wade asked if she was hearing that they had the support of those who attended the community meeting.

Mr. High responded that they did exactly what those who attended the meeting asked them to do.

Ms. Wade said the application states that the applicant realizes the importance of being a good neighbor and that he had met with neighbors and community members to discuss the plans for the site and asked Mr. High if he had any documentation regarding that meeting.

Will Huntley responded that there were two letters of support included in the packet.

Ms. Wade asked if the letters were from residents who live on Hale Street.

Mr. High responded that two letters were from people who had attended the meeting.

Mr. Will Huntley addressed the Board and stated that he is a resident of Pinehurst and the owner of Huntley Design Build, a construction company located in Southern Pines. He and Mr. High have been business partners and friends for many years and currently own and operate a facility on Hwy 211. Due to demand at that facility they started looking for a site for a second facility. He found this property and reached out to Paul Murphy who coordinated a meeting of community leaders. Lem Dowdy, Dot Brower, Oliver Hines and Tony Fairley were in attendance and provided feedback about how this type of facility could fit into the community. They discussed lighting and eliminated the driveway on S. Hale Street and have done everything they can to make this project fit in. They are asking for one thing, and that is a change in zoning. Single-family, townhomes, duplexes, multi-family, a motel, bed and breakfast, bank, credit union, real estate office, lawyer or accountant office, gymnasium, fire station, police station and medical offices are currently permitted and in time this property will be developed. Sec. 3.59 of the UDO states: *The purpose of the General Business district is designed to accommodate highway oriented retail, commercial service businesses and in some limited cases light manufacturing, which generally have as their market area the entire Town and surrounding area. The major objectives of this district are to:*

(1) Encourage planned commercial, light manufacturing conducted within buildings and office parks;

(2) Discourage small Lot Development on major highways;

(3) Encourage vehicular access from service drives and other local commercial streets rather than directly from arterial streets; and

(4) Provide a location for major shopping facilities and land uses requiring large outdoor spaces.

Mr. Huntley stated that they have requested a couple of other community meetings but to date those meetings have not materialized.

Kim Wade asked if any of the community leaders Mr. Huntley mentioned live on Hale Street.

Mr. Huntley responded that he was not sure where they live.

Ms. Wade asked if the consensus was that they were in support of the project.

Mr. Huntley stated that they had received letters of support from Tony Fairley and Dot Brower via email and those letters were included in the packet.

Mr. Huntley read the letters aloud at Mr. Dowdy's request.

Mr. Dowdy asked if they had received any other statements of support.

Mr. Huntley responded no.

Ms. Wade stated that Mr. Fairley is a very smart businessman because he is going to be selling two of the parcels and his property value will certainly increase. She stated that she felt it was only fair that the people who actually live in the vicinity have an opportunity to express how they feel about having a storage unit in front of their residences.

PUBLIC COMMENTS:

Mr. Tony Fairley addressed the Board and stated that he was pleasantly surprised by the project and they did not need the property for the planned expansion of their business so they sold it. They have been in their existing building for five years and in their home for seven (7) years prior to that and the property has been vacant the entire time. It is not uncommon to have to pick up debris where people have congregated which is not pleasing so when the applicants proposed what he thought would be low-impact and aesthetically pleasing he thought it would be good. As he stated in the letter, there are some things that the applicants are doing that he is passionate about, including the Boys & Girls Club and Wounded Warriors. In order to get support you have to allow people to come in. When he did the research and had a chance to speak with the applicants they told him some of the things they were doing in other communities so when they presented this he thought it was a great idea.

Ms. Wade said to Mr. Fairley that he had stated that there was debris on the vacant property but it was her understanding that the residents had requested that the owner clear that property and clean it up so it is not the residents of the community that have caused that property to be in that kind of condition. The residents do not own that property and it would seem to her that the property owner would be responsible for taking care of it.

Mr. Dowdy asked Mr. Fairley about the future plans for his business.

Mr. Fairley responded that they are in the OS zoning district and their daycare is allowed in that zoning district. However, the building does not adhere to the current setback requirements. They were able to use the building under a Conditional Use Permit. Their plan in the future is to demolish the existing structure and build a new daycare facility. They are currently in the process of combining two parcels so they will be able to adhere to the current setbacks. Aesthetically this building would be a great template that they can use to make theirs conform as well.

Lemuel Dowdy asked the applicants what type of exterior lighting was planned for the storage facility.

Mr. High responded that they will have full cut-off lighting that shines straight down and will not shine out into the perimeter.

Mr. Huntley said they will also comply with the Town's lighting requirements.

Mr. Dowdy said members of the community that live adjacent to the site would be concerned about lighting given the height of the building.

Mr. High said there will be four lights on the Hale Street side that are approximately 9 to 10 ft. high and will point straight down. There will be two lights on the south side of the building at the same height and shine straight down.

Mr. Dowdy asked if residents living on Hale Street would see the lights with the buffer and the setback from Hale Street.

Mr. High responded that he could not guarantee that they would not see the lights during the winter months but they are going to try to keep as much of the existing vegetation as possible so it will be hard to see the lights through the vegetation.

Ms. Wade inquired about traffic generation.

Travis Fluett of Kimley-Horn Associates responded that the site is projected to generate 63 trips in and 63 out over a 24 hour period with 8 in the AM peak hour and approximately 14 in the PM peak hour.

Andy Bleggi inquired about the type and height of fence that will be installed around the perimeter of the property.

Mr. High responded that they would prefer to not have a fence. They have such a good buffer that there is not a need for a fence. The entrances will be on the front of the building and will be grocery store style sliding doors with a key pad system for entry and an emergency access at the rear of the building. The emergency access will be gated and equipped with an alarm sensor. Additional landscaping will be installed around the building.

Mr. Bleggi asked how often the grounds are maintained at his other facilities.

Mr. High said they will probably have sod and irrigation at this location and they want it to look nice.

Mr. Bleggi asked what percentage of the facility will be climate controlled.

Mr. High responded that the entire building will be climate controlled and the average size of the units will be 10' x 10'.

Mr. Dowdy asked about sidewalks along Hale Street and Iowa Avenue.

Mr. Carpenter responded that they were requesting a waiver from the sidewalk requirement.

Mr. Dowdy inquired about the sidewalk on the other side of Hale Street and if the applicants plan to build a sidewalk along Hale Street.

Ms. Russell responded yes.

Mr. Dowdy stated that he knows that Mr. High does not yet know what organizations he will support, but in order for the community to have some idea of his commitment the residents would probably need some way to measure what he plans to do in terms of dollar amounts.

Mr. High responded that they have been asked to do different things at his other locations. They do not know what someone is going to need because he has not been a part of this community so he couldn't say in advance how they will help. He provided several examples of community support they provide in other communities where their facilities are located.

Mr. Dowdy asked if outdoor storage will be allowed.

Mr. High responded that there will be no outdoor storage. Some self-storage facilities rent out units for bands to practice but they do not allow bands and the facility will close at 10:00 PM.

Mr. Huntley said they are not going to have moving trucks for rent. There might be one moving truck that they will allow customers use but otherwise the parking lot will be empty.

Ms. Wade asked if he had any data showing how many of the West Southern Pines residents would actually use the facility.

Mr. High responded that a storage facility draws renters from within a one to three mile radius but because the supply is limited here they would probably draw customers from within a five mile radius. The average customer rents for over three years.

Ms. Wade asked how that would benefit the residents in the area.

Mr. High said it will give them a storage option.

Chairman Carroll stated that this land is owned by private individuals and it is zoned for Office/Service. Somewhere along the line someone is going to use it and what the Board is trying to do is figure out how this project fits into the community and whether the residents of the community see it as a problem or a risk. It is not a negotiation of who is going to benefit and from what because someone could come in under the current zoning and build an office building or something far worse than what is being proposed so the Board needs to keep the request in context.

Ms. Bobbie Oglesby, a resident who lives on Hale Street, addressed the Board and stated that she did not receive any communication about the neighborhood meeting. She felt it was a beautiful building but it is not in keeping with the existing neighborhood and it would not be aesthetically or financially beneficial to the community and asked those present on behalf of the applicants if they would want this facility on their street or in their neighborhood.

Mr. James Thompson, a Hale Street resident, addressed the Board and stated that his family has been in the neighborhood since the 1930's and it is hard to believe exactly what they are saying and that it will go the way the applicants have said it will go because there is no one making the presentation that looks like him or the other people that live in that area. His neighbors consider him to be a community leader and he was disappointed that Mr. Fairley did not tell him about the community meeting and they talk all the time. The community was not represented nor was the community informed of the meeting and he did not think that was fair to the residents.

Mr. Dowdy asked Mr. Thompson if he received a letter informing him of the zoning change.

Mr. Thompson responded that they received a letter about the public hearing but prior to that no information was disseminated to them. He does not oppose progress but they oppose progress that does not do anything for them. They would like to see some affordable houses or something like that in this area. They do not oppose the property being developed but it is not fair to the residents to not have been notified prior to the receiving the notice of the public hearing.

Mr. Donald Rich, a resident on Mechanic Street, addressed the Board and stated that he is a 50 year resident of Southern Pines and the West Southern Pines community is important to its residents. Communities across the country are not in favor of these types of facilities in their neighborhoods and the west side is no different. This type of business is historically associated with bringing a measure of crime to the area and that is something they certainly do not need. Traffic will increase exponentially and exacerbate the issue they already have with traffic from the hotels. The difference is that there are a number of jobs at the hotels that benefit the community. This building will be out of place and overbearing. Storage businesses need less than a handful of employees to operate as the applicant stated earlier and they can speculate that the employees will probably not be people from their community. The community needs the right investment that will lift the community economically and not hurt the community with higher taxes and no benefit like jobs and a practical service that the community can use. No one told him about the community meeting until after it had happened. The applicants say that they understand the importance of "being a good neighbor." Well, there are community members that live 30 to 75 steps from the property to be rezoned and the applicants certainly did not meet or attempt to meet with those members. Compelling and overwhelming evidence of why this rezoning should not go forward

has been presented and is reinforced by the presence of the community and a petition signed by over 200 residents who oppose this rezoning. The west side of Southern Pines matters and they are prayerful that it is as important to this Planning Board as it is to them. He, his family and his community cannot support this project and do not believe this property should be rezoned to General Business. Projects like this may be consistent with the Town's overall Long Range Plan but this does not mesh well with the community's short or long-term objectives in terms of economic development.

Mr. Carroll asked Mr. Rich if the petition was available.

Mr. Rich responded that it will be presented at some point.

Ms. Nora Bowman of 740 S. Hale Street addressed the Board and stated that there had been a virtual meeting with the West Southern Pines Development Finance Initiative during which they discussed the vision of West Southern Pines. They talked about having affordable homes, small businesses and small lot development but to her recollection a storage facility was not one of the options. In terms of consistency, although the Long Range Plan does have some plans for that, it is more about revitalization of the property. The property should be cleaned up or developed by the property owner in order to bring up the tax status of the area. Office/Service actually promotes small lot development and West Southern Pines needs to grow through the Office/Service zoning. Traffic impact is also a concern. With regard to suitability, it is more suitable for the property to remain Office/Service. Affordable housing, small business and small lot development would benefit Southern Pines as well. The zoning shows that West Southern Pines is a historical place and the Hale Street area is an overlay district for neighborhood development. The Town of Southern Pines has a plan that includes Office/Service development and growth of West Southern Pines and that would include the area currently in question. The residents are asking for affordable housing, neighborhood businesses and maybe even a greenspace area. The neighbors were not aware of the community meeting. She came home one day to a sign about the rezoning and called people in the community to find out what was going on and that is how she was informed about the rezoning. The application states that it is important to be a good neighbor. Those on Hale Street and in West Southern Pines try to be good neighbors and let each other know what is going on and keep their neighborhood clean. S. Hale Street is a vibrant neighborhood that is clean, well-kept and well-manicured so it is not an eyesore and it does not need revitalization. There are neighbors present who are opposed to the rezoning and would like for the property to remain Office/Service for the benefit of West Southern Pines and she asked residents who are opposed to the rezoning to stand.

At Ms. Bowman's request, at least 15 members of the public stood to indicate their opposition to the rezoning.

Ms. Bowman said they did start a petition to oppose the rezoning and the building of the storage facility and they currently have 23 pages of 436 signatures.

Chairman Carroll asked Ms. Bowman for a copy of the signed petition.

Mr. Wilbert Davis addressed the Board and asked the members to consider how they would feel if someone wanted to build a storage facility eight blocks from where they live. The proposed 63 trips per day multiplied by 365 equals 22,995 people, not necessarily from Southern Pines, who will be coming into their neighborhood. If we continue to work together then Southern Pines can be a great place for everybody and he does not believe that the facility that was presented is what they need at the present time.

Ms. Tanya McNeill, a resident of 720 S. Hale Street, addressed the Board and stated that she has lived there for almost 11 years and is a single parent of two children. She lives in a quiet area and she expressed concerns about her children's safety with the increase in traffic. She does not feel that a storage facility is appropriate for a residential area and is opposed to the project.

Chairman Carroll expressed his appreciation to those who had spoken during the hearing and stated the actions of the Planning Board would be a recommendation to the Town Council and the Town Council will be the deciding board and can overrule the or agree with the Planning Board's recommendations.

Mr. Grieve stated that this matter will go to a public hearing before the Town Council on November 10, 2020.

Chairman Carroll stated that the Town Council meeting will be held virtually and anyone can access the meeting online and he encouraged them to do so.

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

Board discussion ensued.

PLANNING BOARD ACTION:

Chairman Carroll made a **motion**, which was seconded by Andy Bleggi, that after considering the criteria for a zoning map amendment found in UDO §2.17.9, the Planning Board finds that the requested zoning map amendment is not consistent with the Comprehensive Long Range Plan and the Planning Board adopts the Resolution that is included as Attachment "A" in the staff memorandum for Z-04-20 with the following edits or comments:

Therefore be it resolved that even though this is consistent as a Conditional District zoning, the proposed zoning is not consistent with the CLRP based on community feedback, specifically items 2 and 4 of UDO 2.17.9.

And therefore he moved to recommend denial of Z-04-20. **The motion carried unanimously.**

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4. **OA-02-20: Text Amendments to §5.9.1 of the Southern Pines Unified Development Ordinance (UDO) to Permit Food Trucks in the Central Business (CB) Zoning District outside the Historic District Overlay (HDO)**

Mr. Mike Carey, on behalf of Hatchet Brewing Company, has submitted a request to make additions to §5.9 of the Southern Pines Unified Development Ordinance (UDO) wherein regulations are established for the location and operation of Food Trucks, Trailers and Carts. The proposed amendment to the UDO will permit Food Trucks, Trailers and Carts, subject to all otherwise applicable restrictions, in the CB (Central Business) zoning district in areas outside of the Historic District Overlay. A corresponding revision would also be made to Exhibit 3-15 to clarify that Food Trucks, Trailers and Carts (LBCS 2550) are allowed as by-right uses, subject to supplemental use regulations, in the CB (Central Business) zoning district outside the Historic District Overlay. Due to the inter-relatedness of this subject to other standards found throughout the UDO, other sections of text that are closely related to the subject described herein may be discussed and considered for amendment.

Chairman Carroll asked if there were any conflicts of interest among the members of the Board with regard to the application and there were none.

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

STAFF PRESENTATION - B.J. Grieve:

Mr. Grieve addressed the Board and stated that a text amendment application had been submitted by Hatchet Brewing Company. Presently, pursuant to the Unified Development Ordinance, food trucks are allowed with a variety of operational and locational requirements but only in certain zoning districts. Food trucks are not allowed in the Central Business zone, which is an area around the downtown and extending toward US Hwy 1. The applicants are requesting an amendment to UDO Sec. 5.9.1(A)(1) and (2) to allow Food Trucks, Food Trailers and Food Carts in the CB zoning district outside of the Historic District Overlay. A revision would also be made to Exhibit 3-15 Table of Authorized Land Uses to make sure they are permitted uses.

Cooper Carter asked Mr. Grieve to distinguish a food truck from a food cart or food trailer.

Mr. Grieve provided the definition of each type of mobile food service as stated in the UDO and stated that all of the current operational requirements for food trucks would still apply in the CB zoning district.

Chairman Carroll asked Mr. Grieve to provide a map showing the Central Business district.

Mr. Dowdy asked Mr. Grieve to provide clarity regarding the proposed text amendment and UDO §5.9.2 regarding Food Truck Campuses.

Mr. Grieve responded that a privately initiated text amendment application was approved several months ago to add Food Truck Campus as a new use with a Conditional Use Permit. The Food Truck Campus allows multiple food trucks to operate on a property at one time but the site is subject to landscaping and parking requirements. If you are not a Food Truck Campus that has been approved through the Conditional Use Permit and site plan review process, then the other

provisions mean that if you are in the GB or I zoning district you may apply for a permit to have a food truck operate on your property subject to specific regulations. The operator of the food truck and the property owner where the food truck will be located are each required to obtain a permit.

Mr. Dowdy asked how long it usually takes to get a food truck permit.

Cindy Williams stated that if the food vendor has all of the required paperwork a permit can be issued immediately.

Mr. Grieve stated that you may apply for a Special Event Permit to hold an event on private property in any zoning district and that permit allows a food truck to operate on that property during the event. Recently businesses that want to have food trucks in a zoning district that does not otherwise allow them have been applying for Special Event Permits and there is no limit to the number of Special Event Permits that can be requested. There has been some controversy about whether or not it is truly special if you are having events all the time. Staff made the administrative decision that pursuant to the definition of Special Event, if the applicant thinks it is special and it is an abnormal operation it is a Special Event. The applicants who have applied for this text amendment have applied for and received multiple Special Event Permits to hold Special Events which happen to include food trucks. They have that right under the UDO.

Kim Wade asked what would cause an applicant to be denied a Special Event Permit.

Mr. Grieve responded that it is possible that the Police Department could have an issue with the date or type of event. The Town Manager has the right to delegate to designees the authority to grant Special Event Permits.

Mr. Dowdy asked what procedure a person would have to undergo to operate a food truck at a certain location in the Central Business district under the amended requirements.

Mr. Grieve responded that the food truck operator and the property owner would each get a permit that would be good for one year. The food truck must be operable and it must be moved from the site each day. One food truck may operate at a time on a property.

APPLICANT PRESENTATIONS:

Mr. Greg Walker addressed the Board and stated that they have invested a fair amount of money into the economy, especially a part of the Town they were told the Town was trying to revitalize. From what they have seen he does not believe that food trucks directly compete with restaurants. He has heard a few comments, one of which is the tax issue. He would argue that they probably pay more taxes than anyone between a federal excise tax, a state excise tax, property taxes, etc. so he personally does not feel that is a significant argument necessarily. The other comment was regarding aesthetics and he does not understand that argument either.

A lot of people will come out, even from places like Charlotte and Raleigh, just to see a brewery. He would like to think that at least the brewery industry is fairly collaborative. People will check

them out and then go to Southern Pines Brewing and the Growler Shop and it really feels like those in the industry support each other. It feels the same way with a food truck. People will come out and bring their family and eat something and especially when you are talking about a smaller food truck it is not necessarily a large meal. They will do that for lunch or in the afternoon and then stay downtown and go shopping and go to a sit down restaurant and he thinks that is more of what you see especially as a younger generation comes into the community.

Mr. Mike Carey stated that they have applied to have a food truck every Saturday only from 1:00 to 6:00 PM. They do not have a food truck every day. Throughout the entire week any restaurant that delivers downtown is allowed to deliver to the brewery. They welcome it and have their menus at the bar. Even when they have food trucks you will see someone with food from other restaurants so it has been kind of frustrating because they apply for Special Event Permits as the UDO requires and pay a fee of \$400.00 per month to the Town. They also have music on Saturdays from 6:00 to 9:00 PM. That is not normal business for them and they do not do that every day. They make beer and try to provide a good space where everybody feels welcome.

Chairman Carroll asked how far away from their site a food truck would have to be in order to operate.

Cooper Carter responded that the Pony Espresso site is zoned GB.

Mr. Carey responded that the closest restaurant is Grinders & Gravy across the street. They have talked to all of the owners in the area and it hasn't seemed to be an issue except for a few business owners and they have that right.

Andy Bleggi asked where they see this going and if they see having only one truck.

Mr. Carey said their grand opening was the only time they have had more than one truck but they had like 1,700 people that day so it was good that they had three food trucks.

Mr. Walker said that was a special event and not something they intend to do frequently.

Chairman Carroll stated that it was his understanding that you are only allowed to have one food truck in a given area.

Mr. Walker responded yes.

Mr. Grieve provided the GIS map showing the areas that are zoned CB and the Historic District Overlay.

Mr. Carey stated that they have invested almost \$2M into a corner of Southern Pines. They were under the assumption – and what they were told when they talked to staff about their plans - that if they were not having a food truck every day it really did not seem to be a huge issue. They have a food truck between lunch and dinner. They were having a food truck twice a week but things started to come up and they heard that people in Town were having issues with it so they decided to have a food truck only once per week. There has been a lot going on and there is a lot of

frustration that goes along with it. They have put this forward just so they can put everything behind them and move forward as small business owners.

Cooper Carter asked if they would prefer to have a kitchen in their building or if they like the food truck model.

Mr. Carey responded that they love the food truck model because it brings a variety. They cannot have a restaurant because they do not have the space to meet the parking requirements of the CB district, which the Historic District does not have to meet. You can look anywhere online at social media and most breweries operate with a different food truck every day of the week for a couple of hours during lunch or in the evening. It is part of microbreweries.

Chairman Carroll said so it stands today, changing the UDO based on what they would like to do would basically save them \$400.00.

Mr. Carey said not necessarily because right now they are applying for a special permit and really it does not say that a special permit means it is a birthday so we can have a party but music is not everyday business for us so it is special to us. Food trucks are not every day so it is special to them. If they could just apply for the yearly food truck which you cannot do in CB right now they probably would not be having this conversation.

Chairman Carroll said if they did not have to have a Special Event Permit they could have a food truck every day.

Mr. Walker responded that depends on how the text amendment is written.

Mr. Carey said they would pay for that permit for the year.

Mr. Walker said to Chairman Carroll's point they would not have to apply for a Special Event Permit unless they were doing some type of special event.

Mr. Bleggi stated that the Planning Board makes a recommendation to the entire Town so how does everyone benefit as citizens of Southern Pines.

Mr. Carey said to be completely honest they bring 400 to 600 people in on a Saturday. Those people use their private parking lot and then walk. You can sit on their patio and grab a beer and something to eat. It is business for everybody and when they are busy everybody is out and eating and when they are not busy everyone else pretty much is not busy either.

Mr. Bleggi commented that it gives a bigger variety of foods.

Mr. Walker stated that it is a way that a lot of small businesses get started. They added a couple of studies to their application of the impact that food trucks have had in cities and small towns and they have revitalized the community. It allows a small business to test out a menu and work through their systems and then graduate into a brick and mortar building so it has been beneficial to smaller economies as a tool and a mechanism.

Mr. Carter said right now they have a food truck one day a week and asked if restricted hours, i.e. lunchtime 7 days a week or 5 days a week or some kind of restriction in that regard would impact what they are looking for because he was thinking of the five hours a week for now concept but if the Town were to open the aperture you could be looking at hundreds of hours a week of a food truck and also his concern was if another business at that location wants a food truck and if a restriction should be placed on the type of business that can have a food truck.

Mr. Grieve responded that every parcel that has space within their parking lot where they are not using any of their required parking spaces can have a food truck. Any parcel within the CB zone that has the space in their parking lot could have a food truck.

Mr. Carey asked if they would have restricted hours if they opened a restaurant or would they be allowed to just be open. Their plan is not to have a food truck every day. That is not the plan at all but the bullying and the harassment is coming from them doing it just once a week so they just want some clarification so they can do that freely and then everything else can stop and they can just continue with their business.

Mr. Dowdy asked what Mr. Carey was referring to regarding bullying and harassment.

Mr. Carey responded that he should not have brought it up. He is pretty frustrated but he is not trying to be disrespectful.

Mr. Dowdy asked Mr. Carey what he sees as the downsides of the present requirements for them to have a food truck.

Mr. Carey responded that the problem is that one or two business owners in the Town do not feel that them having music classifies it as a special event.

Mr. Walker stated that Mr. Grieve eluded to it at the beginning but there is a lot of contention about whether or not it is a Special Event. It seems to them that the argument is because what they are doing is on a regular basis so it is no longer special and therefore they should not be allowed to do it. It is working for them right now. The issue is that there is a strong argument it seems to prevent them from doing the things there are doing as it stands. So far everything they have done is in accordance with the UDO and legal and they have paid the fees.

Mr. Carey said that they were brief on the steps the needed to take so they could have a food truck on the days they wanted to have one when they moved into the building.

Chairman Carroll said they have to understand that whatever decision they make does not apply to just them and it goes out exponentially.

Mr. Grieve stated that when someone applies for a Special Event Permit and someone challenges the event saying it is not special, the staff responds with the Town's definition of a Special Event: *Temporary organized events that: (A) Run no longer than two weeks; (B) Are intended to or likely to attract substantial crowds; and (C) Are unlike the customary or usual activities generally associated with the property where the special event is to be located.* So far, in terms of

interpreting the zoning, their request for a special event once a week falls within this definition of a Special Event.

Chairman Carroll stated that he could argue that it does not and that is the problem.

Mr. Dowdy asked the applicants if it was correct that they do not have a problem now but are saying they may have a problem in the future with a more limited interpretation of the definition of a special event.

Mr. Walker responded that they do not have a legal issue right now. There are people that intend to counter or at least challenge what is happening so it is anybody's guess how long that will continue and what that will turn out to look like.

Mr. Dowdy said if they could get assurance that the definition of Special Event would be interpreted as it has been interpreted they would have no problem.

Mr. Walker responded that was correct.

Mr. Bleggi said they would still have an economic impact because it would cost them a fee every month.

Mr. Dowdy asked how much it costs to get a Special Event Permit.

The applicants responded that they pay \$50.00 every time they have a food truck. When they were allowed to reopen after Covid they were having a food truck every Saturday so they would write a check for \$350.00 to \$400.00 to the Town. Then some email traffic started and some people started complaining so they said they would step it back and just do it on Saturdays.

Mr. Dowdy asked how much it would cost for them to have a food truck under the amendment.

Mr. Grieve said the cost would be \$50.00 for the location and \$50.00 for the operator once a year.

PUBLIC COMMENTS:

Ms. Rachel Jurgens addressed the Board and stated that she owns the Pony Espresso business on the corner of Morganton Road and Broad Street. She is in the final stages of developing that corner into the food truck campus which she has been working on for over a year. Obviously she loves food trucks and supports them immensely except in this instance. She is putting a pause on the future of her development because of the cost and everything the infrastructure will entail. She is sad for Hatchet Brewing because she thinks one food truck being downtown is completely acceptable, but Central Business is a pretty big area and would directly impact the saturation of how many food trucks would be in the area. She was trying to become a destination site where families came and had the choices of the food trucks and it kept them contained. She would have sewer and water and the food trucks would not run generators so there would not be noise and she would be charge of garbage. Her worry is if food trucks are throughout downtown it lessens the chance of people coming out that way and an area of Southern Pines that right now is a big eyesore

being improved. The Food Truck Campus would also pull people even further to that area of Town that is the gateway to Southern Pines – kind of the first site as you come into town. Her idea is to make it beautiful and have something impressive to see as you come in. Her biggest point is she wished just Hatched could do this, but by the text being edited it is quite a broad swath and she would love to know how many parking lots, empty spaces – if someone could figure that out – where there could potentially be a food truck on any given night so if the text changes would it be one or two or could it be 20 or 30 food trucks any given night. Hatched is awesome to say they will only be on Saturdays but that is a slippery slope of all of the other places doing it every night of the week and every day of the week for breakfast, lunch and dinner.

Chairman Carroll asked Ms. Jurgens if she had put her project on hold until she sees what happens with the text amendment application.

Mr. Bleggi stated that with the food truck campus, the advantages Ms. Jurgens has are clearly sewer and electricity but isn't the concept of a campus the more the merrier because of variety and location so it is in the CB district, the more food trucks the better if you have a better facility, better operations, better safety and parking, isn't that the whole thing about competition.

Ms. Jurgens said absolutely. She is excited about the food truck campus. The worry she has is the idea of food trucks being speckled literally all through downtown. It is expensive infrastructure to put in.

Chairman Carroll commented that she wants to attract food trucks and if a food truck can go to a brewery and sell three times the amount of food that is where it is going to go. There are a lot of things to consider.

Mr. Bleggi asked if she could have contracts with her food vendors.

Ms. Jurgens said she would definitely have a contract but they do enjoy moving around and being somewhere closer to downtown where there is more foot traffic they would probably choose that over being on the outskirts of town. She wishes just Hatched could have a food truck but it becomes a bigger deal when it changes the text for the Central Business zone.

Mr. Bleggi asked Ms. Jurgens if she was saying she was against the text amendment.

Ms. Jurgens responded that it is an odd spot because she is not against food trucks but it makes it hard for her to go forward if they are all closer to downtown so she is in a holding pattern.

Mr. Carter asked staff if a Conditional Use Permit for a CB could come forward for a specific parcel to allow food trucks.

Mr. Grieve responded no because historically motor vehicles are not land uses and conditional uses are land uses. A food truck campus is an established land use and therefore there is a conditional use permit to use this land in a certain way. His professional preference would be to keep land uses to those listed in the UDO. The applicants for this text amendment did go before the Town Council at a work session with a request for this text amendment and the Town Council

responded that it was interesting and they wanted to study it and would have staff take a look at it. Planning staff has not had the directed by the Town Council to research this more.

Chairman Carroll stated that limit proximity might be an interesting idea and may be more equitable.

Mr. Grieve responded that it would be a challenge administratively to keep track of the location of food trucks at any given time.

Mr. Dowdy asked Ms. Jurgens if she was going to decide that evening whether to proceed with the food truck campus.

Ms. Jurgens responded that she was going to wait.

Mr. Dowdy said if there is any chance that food trucks are going to be allowed throughout the CB district then she does not want to take a chance at developing her campus.

Ms. Jurgens responded that it is a pretty big investment to gamble on. If it is was simple and she was not required to meet all of the development requirement is significant so she is on pause.

Mr. Con O'Mahoney, owner of Bell Tree Tavern, stated that he is against food trucks across the board, including the food truck campus and food trucks in the Central Business district or the Historic District. It is not personal and it is not about their businesses succeeding. He wants to see Hatchet succeed because it helps the downtown. He has an issue with a number of the text amendments and he does not think they meet the criteria to change the UDO. He has sent emails to the Council for the last ten years regarding food trucks. There is some criteria for approving text amendments and the first one is consistency. He does not agree that it is consistent with the Comprehensive Plan given the proximity to the Historic District and there is no buffer which means that they can park a truck in the CB district right next to the line of the Historic District depending on where parking spaces are available.

If it was something that benefited the community he might change his mind even though he is not a proponent of food trucks here. He thinks food trucks are a fair mentality when they are in places where there is not an opportunity to buy food or specific food but they should not be across the street from a brick and mortar restaurant that pays taxes, employs people, generates revenue for the General Fund, which is 30 to 40% from the brick and mortar restaurants in this County. Brick and mortar restaurants do not come and go or pick and choose. They donate to schools and give out candy at Trick or Trick in downtown Southern Pines. Brick and mortar restaurants and breweries are a part of Southern Pines but food trucks are not so whether you say it is Central Business, General Business or Historic District he disagrees with it. He likes food trucks as much as everybody else but he does not think they should be within the downtown area. He made the same argument with the food truck campus. It was approved and it is coming. He does not have a problem with Hatchet having a food truck as part of a Special Event Permit and he does not think they should have to pay \$400.00 every month. It is tough enough. If an amendment was passed that if you have the proper spacing and proper parking and you want to have a special event with a food truck, he gets it. But if you change the UDO it is fair game and it is more than a slippery

slope. It is not one day a week no matter what anybody there thinks and he has been in the business a long time. One day turns into two days. There is no guarantee.

Public Policy. Is there a specific need? Examples include need for affordable housing, economic development, mixed use development, sustainable with environmental features, consistent with the Town area, neighborhood or specific plans. Is there a need? Are we not vibrant enough? He thinks food trucks are cool and he thinks they are neat. If they bring 6 or 1,200 people it doesn't matter because your occupancy is 200 and if you are playing by the rules you cannot have 1,200 people. You certainly do not have parking for 1,200 people. So there are a lot of different avenues here. He is not against Hatchet by any means. He wants them to survive. He wants them to succeed and he wants them to prosper. This is a food truck issue. Special Events are one thing. His definition of a special event is something that is special, such as Oktoberfest. It is not something that is special every other weekend. That is not a special event. It is regular business having a band and a food truck. If they want to do it every weekend he is not going to argue with it. The Town decides how they want to play that. Changing the UDO will change that whole spectrum dramatically. It won't be just one. It will be more than one.

Impacts. How does this impact the proposed amendment? Who does this favor? How many businesses? Is it detrimental not to have it? Please take that into consideration.

Mr. Bleggi asked if a food truck is allowed anywhere downtown.

Mr. O'Mahoney responded no because he is in the Historic District.

Mr. Bleggi asked how far out a food truck would have to go.

Mr. O'Mahoney said he knows there was a special event that had a food truck in the Historic District but he assumes that was approved.

Mr. Bleggi said it is by a special event only.

Mr. O'Mahoney responded that he did not know.

Mr. Grieve responded that Mr. O'Mahoney could apply for a special event permit.

Mr. O'Mahoney said he thinks that if places want to have something special every now and then he gets it but he hopes that the Board thinks about that.

Mr. Bleggi asked Mr. O'Mahoney if he would recommend different hours.

Mr. O'Mahoney responded that if the applicants are going to pay for a permit – even if it is an annual permit, which he thinks is a great idea – he thinks it should depend on how close you are to a residential area. If he has music on the back patio of his restaurants he receives complaints. If there was more of a buffer where there weren't restaurants and things like that he might a different thought even though he still does not think food trucks should be in the area of restaurants

because of the difficulty and cost of running a restaurant and the impact food trucks would have on their business. There is no buffer between the Residential, Historic or Central Business districts.

Mr. Bill Genova addressed the Board and stated that he is a business partner in the Reds Corner Food Truck Campus project and that food trucks are a way of life and have a lot of benefit to communities. He thinks they are a complimentary aspect to the businesses downtown but he thinks if food trucks are allowed in the business zones they will be in direct competition with the brick and mortar restaurants. It is difficult, in his opinion, to effectively and efficiently manage the competitive environment downtown with food trucks than most people think it is going to be and he asked the Board to consider that carefully. He asked what mechanisms the Town is going to provide to ensure that ordinances are followed and people's lives and businesses are not negatively impacted. There are significant implications with taking food trucks from an area where in his opinion is complementary to businesses and putting them downtown where there is no buffer. Significant thought needs to be given to this text amendment request.

Andy Bleggi made a **motion**, which was seconded by Cooper Carter, to close the public hearing. **The motion carried unanimously.**

Board discussion ensued.

PLANNING BOARD ACTION:

Cooper Carter made a **motion**, which was seconded by Lemuel Dowdy, that after considering the criteria for text amendments found in UDO §2.17.10, the Planning Board finds that the requested text amendments are not sufficient. The Planning Board supports the applicant's efforts to operate a food truck in the CB zoning district. However, the Planning Board is concerned with the potential impact of the proposed text amendment as currently written as they may not be consistent with the Comprehensive Long Range Plan. The Planning Board recommends that Planning staff study and develop potential text amendments concerning the operation of food trucks in the CB zoning district by March 1, 2021.

And therefore, Mr. Carter made a **motion**, which was seconded by Lemuel Dowdy, to recommend to the Town Council denial of OA-02-20. **The motions carried unanimously.**

OLD BUSINESS:

None.

NEW BUSINESS:

Mr. Grieve stated that the Planning Board will meet virtually in November and for the foreseeable future.

Gary Carroll made a **motion**, which was seconded by Cooper Carter, to adjourn the meeting. **The motion carried unanimously.**

The meeting adjourned at 11:26 PM.

Respectfully submitted:

Cindy Williams
Secretary to the Planning Board