



Town Hall: POB 970, 4117 Oak Ridge Road, Summerfield, NC 27358  
ph: 336-643-8655 / fax: 336-643-8654 / www.summerfieldgov.com

Z O N I N G   B O A R D   M I N U T E S

NOVEMBER 25, 2013, 7:00PM, SFD COMMUNITY CENTER

The meeting was called to order at 7:09pm by Nancy Hess with the following present:

<b>Zoning Board</b>	<b>Staff</b>
Nancy Hess, Chair	Julie Reid, Interim Town Planner
Jeff Davis	William Rozell, Town Attorney
Dick Feulner	Scott Whitaker, Town Manager
Scott Henson	Valarie Halvorsen, Town Clerk
Kathy Rooney	

Feulner made a motion to formally excuse Trudy Whitacre and admit alternate Scott Henson, seconded by Rooney, which carried unanimously.

CONSENT AGENDA

- A. Approval of agenda: Henson motioned to approve the agenda, with the addition of Birkhaven Phase 6 subdivision case. The motion was seconded by Davis and carried unanimously.
- B. Approval of minutes: As Hess and Henson were not present at the 9/23/13 and therefore would not vote on the approval, Rooney motioned to postpone approval of the minutes to next meeting, seconded by Feulner, which carried unanimously.

PUBLIC HEARING

**Rezoning Case 02-13** (applicant: Combs, Incorporated; location: 3302-R3 Oak Ridge Rd. north of terminus of Briardenn Dr. within the Birkhaven subdivision)

Reid presented the case, noting the applicant is requesting a rezoning from AG Agricultural District in a Watershed III Protection Area to RS-40 Residential Single Family District in a Watershed III Protection Area. Both the watershed regulations and the zoning regulations of the Development Ordinance apply to this parcel.

Reid described levels of compliance with several policy areas of the Comprehensive Plan, and noted there was some discrepancy in the interpretation of average minimum lot size in the Watershed Regulations of the Development Ordinance and described three interpretations.

Reid stated all primary conservation areas should be set aside with no disturbance allowed, and should not be included in home lots.

Feulner inquired as to how the lot size discrepancy would be resolved. Reid said the third interpretation appeared to be used most often in Summerfield, and it allows for a reduction in all lot sizes by averaging in the required open space lot(s) required by Section 5-13-5 of the Development

Council: Mayor Mark Brown, Dena Barnes, Alicia Flowers, Dianne Laughlin, Elizabeth McClellan, Jonn Wray, Jr.

Zoning Board: Nancy Hess (Chair), Jeff Davis, Dick Feulner, Kathy Rooney, Trudy Whitacre, and alternate Scott Henson



Ordinance. There is no provision for averaging minimum lot sizes within the RS-40 district where the requirement for open space is ten (10) percent for 5-24 lots. Reid further noted the UDO Rewrite clarifies the issue, but the current one does not. Rozell stated the interpretation was not important for the rezoning, but could be addressed during the subdivision review.

*Hess opened the public hearing at 7:35pm.*

#### Proponents

Chris Rohrer of Land Solutions, 200 S. Regional Road in Greensboro, feels the request for rezoning meets the requirements of the Development Ordinance and the Comprehensive Plan, and is consistent with and similar to nearby projects. He noted there was no one in opposition at the open house and asked the Board for a recommendation of approval.

#### Opponents

(none)

Feulner commented on the poor print quality of the packet materials.

*Hess closed the public hearing at 7:44pm.*

#### Board Discussion

Hess asked about the conditions that were placed on previous phases; Reid said they would not necessarily carry over to the new phase, as there may be different deed restrictions and changes to the Development Ordinance between approvals.

Responding to a query from Feulner, Reid stated a maximum of 60 units were approved in the original 2006 CU-RS-40 rezoning, which was to be split out over five phases, and approval of this rezoning would add 17 additional lots, for a total of 77. Reid said it is conceivable that adjacent land could be developed, leading to more lots accessing the proposed road. Feulner is concerned with the public safety aspects of only having one entrance/exit, particularly if other developments access the road from stub outs. Reid noted lack of a secondary access is a common concern, so it is reasonable to consider the "likely yield" of the entire area.

There was brief discussion about potential secondary access points.

Feulner asked Reid to discuss how the request does not comply with the Comprehensive Plan. Reid stated Policy Area 6 states "The RS-40 District is intended for application on land tracts that are predominantly free of environmental constraints" and this property has significant environmental constraints, but noted this can be addressed during the subdivision consideration, as it relates to lot configuration. While the applicant identified more conservation area than required, it does not include the entire primary conservation area. Regarding open space dedication, it is unclear if it will be in a conservation trust or an easement. Applicant Kevan Combs stated an HOA would be established to regulate open space and future bylaws would limit tree clearing.

Davis asked if it was appropriate to ask about the number of homes; Rozell responded by reminding the group of its charge to focus on the rezoning aspects and not the subdivision parameters.

Rooney made a motion to approve Rezoning Case 02-13 AG and rezone the subject property from



Agricultural District in a Watershed III Protection Area to RS-40, Residential Single Family District in a Watershed III Protection Area, and further stated it as reasonable, in the public interest, and consistent with the Comprehensive Plan's section about private property rights. Rozell advised Rooney to be more specific; Whitaker requested the citation of a particular plan policy. Rooney restated her motion to include that the rezoning request meets Policy 6.1 of the Comprehensive Plan, which states "Residential development in Summerfield should remain mostly low density, single-family detached housing." Feulner offered a friendly amendment adding three conditions:

1) Require confirmation that the fire department has no safety concerns with the number of homes and only one access; 2) Require the same from EMS; and 3) Require that all slopes of 15% or greater be part of primary conservation area.

Kevan Combs objected to the third condition, stating heavily-sloped areas would have basements.

Rooney accepted the amendment, which was seconded by Feulner. Hess asked about the 15% slope condition; Rozell stated that could be discussed during the subdivision consideration but not now. Feulner withdrew the third condition regarding 15% slopes; Rooney accepted. There was discussion about conditions #1 and #2, but a recess from 8:16pm to 8:27pm followed prior to a vote.

*Hess opened the floor for public comments at 8:27pm.*

Kevan Combs stated providing a secondary access would involve several other property owners and would result in loss of connectivity. He noted subdivisions throughout the local area and in North Carolina have higher densities yet only one access, and felt it is not reasonable to include a secondary access now. He felt the proposal was responsible and suitable for Summerfield and wanted to develop the property in phases, eventually connecting back to Oak Ridge Road, and added that NCDOT has ultimate authority on roadways.

Hess reminded that there was an open motion and a second on the floor, and that the applicant had agreed to conditions #1 and #2 concerning safety input from the fire department and EMS. Reid agreed that staff would draft a letter to each entity requesting an opinion. Hess called for a vote.

The motion to approve Rezoning Case 02-13 AG and rezone the subject property from Agricultural District in a Watershed III Protection Area to RS-40, Residential Single Family District in a Watershed III Protection Area was noted as being reasonable, in the public interest, and consistent with Policy 6.1 of Comprehensive Plan. This final motion included two conditions requiring: 1) confirmation that the fire department has no safety concerns with the number of homes and only one access; and 2) confirmation of the same from EMS. It was approved unanimously.

*Hess closed the floor to public comments at 8:39pm.*

Subdivision Plan Birkhaven Phase 6: Hess motioned to table the item until the next Zoning Board meeting in order to get responses from the Fire Department and EMS, a decision on the Rezoning from Town Council, and full subdivision maps. The motion was seconded by Feulner and carried unanimously. There was discussion about holding a Special Call meeting to address the item sooner.

*Recess from 8:50 to 8:53pm.*



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PUBLIC HEARING

**Abandoned, Nuisance, and Junked Vehicle Ordinance**

*Hess opened the public hearing at 8:53pm.*

Whitaker stated Code Enforcement Officer John Ganus drafted the ordinance, which was reviewed by the Town Attorney. Following brief discussion of what constitutes an abandoned vehicle and who enforces towing based on vehicle location, Reid suggested that Board members compile a list of questions/concerns that Mr. Ganus can address.

With no further business before the board, Hess made a motion at 9:08pm to recess meeting until December 11, 2013, 7:00pm at Town Hall. The motion was seconded by Henson, and carried unanimously.

Nancy Hess, Chair

Valarie Halvorsen, Town Clerk

Council: Mayor Mark Brown, Dena Barnes, Alicia Flowers, Dianne Laughlin, Elizabeth McClellan, John Wray, Jr.

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