

TOWN OF FUQUAY-VARINA
PLANNING BOARD REGULAR MEETING
October 19, 2020

CALL TO ORDER

Chair Ed Ridpath called the regular meeting of the Fuquay-Varina Planning Board to order on October 19, 2020 at 6:00 p.m. This meeting was conducted using the Zoom media platform due to state mandates for social distancing to prevent the spread of the COVID-19 Novel Coronavirus.

Board Members Physically Present: Ed Ridpath (Chair)
Jay Adcock
Barbara Marchioni
Andy Petty
Alex Rickard

Board Members Absent: Tracy Watson

Others Physically Present: Planning Director Pam Davison
IT Director Scott Clark

Others Remotely Present: Jim Chandler
Michelle Peele
Natalie McKinney
Allyssa Stafford
Assistant Town Manager Jim Seymour
Town Attorney James Adcock

Virtual Meeting Instructions

Planning Director Pam Davison read aloud the virtual meeting protocol and instructions for public participation. She announced that anyone wishing to participate in the meeting would need to join using the Zoom media application or call into the Zoom meeting with the provided list of phone numbers on the Town's website.

APPROVAL OF THE MINUTES

Motion - Approve the minutes from the September 21, 2020 meeting of the Planning Board as presented and recommended.

MOTION: Jay Adcock
SECOND: Barbara Marchioni
MOTION RESULT: Minutes Approved Unanimously 7-0

Chair Ed Ridpath continued the meeting by stating that public hearings are a time for petitioners to present requests and for the public to state their concerns and voice opinions in favor of or in opposition to these requests.

ITEMS TABLED FROM PREVIOUS MEETING

PUBLIC HEARING

Agenda Item No. 4.A: Town Code Amendment - Town of Fuquay-Varina - Land Development Ordinance (LDO) Amendment #12 - CTA-2020-06

Purpose - The purpose of this agenda item is to consider a proposed text amendment to the Town Code of Ordinances, Part 9 Land Development Ordinance, Amendment #12 that addresses several areas for improvement.

Staff Comments – *Planning Director Pam Davison* entered the agenda abstract and supporting documents for this agenda item into the official record of the Town.

Recommendation – Staff recommends approval of the proposed town code amendment. It is reasonable and in the best interest of the public, as it improves upon the Land Development Ordinance's intent to modernize, provide sustainability, and allows for ease of use and enforcement, specifically with regard to the Town's current standards.

Planning Director Pam Davison reminded attendees that if they would like to speak, they could do so by raising their hand by pressing the “raise your hand” button or if participating via phone they would need to press *9.

Public Hearing – The public hearing was opened to speakers in favor of the petition. There were no speakers in favor of the petition.

The public hearing was open to speakers in opposition to the petition.

Jim Adams – Developer and owner of 200 Dickens Road property; stated that he was opposed to the text amendment specifically the portion that speaks to the 3,000-foot separation between stand-alone garden style apartments and the elimination of the form based code zoning exception to the separation requirement. He explained that he does not believe that this portion of the amendment is in the best interest of the Town. He shared his personal point of view and how it would directly impact his investment into the former Guilford Mills industrial site. He explained the work and effort he has undertaken during the last few years with the state, engineers and Lear Corporation, the former owner of the site to enter this site into a brownfield agreement which was received in 2019. He further explained a timeline that led to a call he received from staff explaining the text amendment and how it would affect his project. He closed his remarks by requesting that the planning board members not pass the amendment as it will relegate the project to commercial and retail uses only.

Katie Hamilton – Landscape Architect with Stewart Engineering; shared her professional background as a landscape architect. Ms. Hamilton detailed her concerns on the proposed 3,000-foot separation code text amendment as a blanket approach to limiting multi-family projects. Her first concern was that this amendment will no longer allow apartments in the areas designated by the Town for urban development which is also included in the LDO. Ms. Hamilton explained that the LUP

calls for higher densities along designated corridors which includes the Guilford Mill site. She asked that town staff look for other alternatives which would allow changes in design and quality to keep with the LUP call for multi-family and walkable communities, which precludes garden apartment style development by requiring developers to pull apartments closer to the street. She recommended that this change be done at rezoning or as a special use option so each site would be analyzed independently. Her last concern was for limiting apartments in areas adjacent to existing multi-family development which she felt could inadvertently lead to either vacant retail on the ground level or more big box stores. She closed by stating the changes to this ordinance can be done with a greater level of nuance to achieve the goals of the LUP while ensuring a higher quality of multi-family development.

Bruce Ingleheart – Fuquay-Varina resident and neighbor to the Guilford Mills property; stated that he was opposed to the amendment because he is in support of the Guilford Mills development. He participated in the original planning of the site and noted he has a professional background in shopping center management. He stated that based on his experience, retail is difficult to develop without a lot of roof tops. He feels that big box is already being developed due to the surrounding big box entities that exist. He added that going to a retail-only product on 40 acres would be a long time coming. He expressed concern that the industrial area would end up remaining industrial and not help the home value of surrounding area. He feels that retail and boutique-style retail will not make it and residential should be considered and allow retail to come. He went on to talk about COVID-19 impacts and feels that the immediate future of this site would require roof tops to come in so the retail can come successfully.

Mack Paul – Attorney with Morning Star Law Group representing GMR Holdings; stated that he is speaking in opposition to the amendment and wanted to speak on the way the proposed amendment could impact several property owners. He explained the nonconformity issue, monuments clause and disproportional impacts surrounding this amendment as it is currently written. He asked that the Board consider how this will affect existing property owners that wish to make future modifications, expansions, or changes to a multi-family development. Mr. Paul stated the issues of monuments and allowing benefits to some property owners that others would not have. And closed by stating the disproportional impacts that this amendment change would have by limiting multi-family through this method.

Chair Ed Ridpath clarified that this discussion is not about any specific rezoning or the review of any existing properties. He added that he understood the specific property issues that came forward; however, this is not about those specific properties. He asked what is the urgency from the Town's perspective on this amendment and can the Board have time to think about it and deliberate?

Planning Director Pam Davison replied that the LDO was adopted in October 2016, with the first clean up amendment taking place in November 2016. The original 1,500 foot spacing for multi-family was applied at that time, as it was a concern that came up quickly. The form-based and mixed-use products were not included in that amendment with the goal that a more urban and creative product would be the outcome of form based development. The first form-based development (Bengal Towne Centre) is under construction with several other form-based developments in the review process. Staff is instead seeing a suburban interpretation of the form-based code without the desired integration of commercial and multi-family. While the projects are technically meeting the required calculations for the minimum and

maximum of residential and nonresidential uses, we are still seeing the commercial on one parcel and apartments on a separate parcel. We were hoping for a more innovative and creative interpretation; a more urban look that would marry together the live, work, play concept. This amendment is partially in response to the continued presentation of garden style apartments in form-based development. We want to push developers to do better. With the code in its current state and without the exclusion, there is no requirement to meld them together. The Town continues to encourage vertical mixed-use development because we feel that it encompasses the intent of the mixed-use goals in the form-based code. She added that the map that was included in the agenda item shows in the past eight (8) years we have approved over 2,700 multi-use units. Planning Director Pam Davison concluded; the urgency is that there is to be a pattern of development that we would like to slow down. The 1,500 feet was originally proposed in 2016. In response to the last several years of garden style apartment projects being developed, specifically coming down Highway 55, we are aiming to control the aesthetic of our corridors. Staff aims to have more control of what is being developed and provide adequate space between the apartment complexes to encourage commercial development and other uses.

Chair Ed Ridpath stated that things are not clear, and it looks like we are trying to attack one problem with another solution. He discussed form-based problems and the intent of the apartment. He asked if there is a way to get the look and feel that we are trying to get within the limits of the LDO.

Planning Director Pam Davison stated the solution that we are seeing is the vertical mixed-use product where you have the commercial or office on the first floor with apartments above.

Chair Ed Ridpath stated that he disagreed with that because that is the reason for the three (3) different districts within the form-based uses; commercial does not have to be on the ground floor, but possibly a 2 block walk. He shared his interpretation of form-based in the LDO. We do not want apartment after apartment, and they do not have to be ugly; he shared an example from the Charlotte area. We do not want to discourage garden style apartments however in form-based development because we were looking for more density to encourage mass transit to work.

Planning Director Pam Davison stated that with the current form-based developments we are seeing the intended interpretation in the single family detached lots and the townhomes incorporating green squares, small front setbacks, alley loaded garages giving it a much more urban and pedestrian friendly feel. The disconnect seems to be with the multi-family portion.

Chair Ed Ridpath asked that since we are getting what we want out of the townhomes and single family in general, how do we attack the problem?

Planning Director Pam Davison replied that in all three (3) of the form-based zoning districts, there is a minimum requirement for nonresidential or commercial development. Vertical mixed-use developments count against the commercial requirement and still gain residential density. The second item to note is that the Guilford Mill site is designated as Commercial Village, which is different from the form-based Mixed-Use Neighborhood designation and is intended to be more commercial, potentially 75% with only 25% residential.

Chair Ed Ridpath stated that a commercial village idea possibly included light industrial and possibly workers having the ability to walk to work which included more affordable multi-family type housing to support the concept. The problem still seems to be the appearance of the apartments. He added that the existing 1,500 foot separation space is enough to keep a significant amount of separation from the apartments that we don't have control over which are being put into multi-family zones rather than a form-based zone. He closed by stating the 3,000 feet separation is way too much and should not apply to form-based. We also need to figure out how to encourage developers to put in the vision that we have for what those form-based apartment complexes look like.

Board Member Alex Rickard asked for the review process for form-based development be explained.

Planning Director Pam Davison Replied that form based development would come through as a rezoning with a master plan complying with the parameters of the form-based code and the three (3) zoning districts RMU, NMU, and UMU. The zoning district parameters are determined by the acreage, above 20 acres, from 5-20 acres and under 5 acres have different requirements. Basically, setting out the areas that will be designated in each zoning district. There is no site plan involved in the rezoning, so naming the type of housing is not required, the form-based code lays out the density. She went on to explain that the developer did have a predevelopment meeting and he did show a layout and an idea, and as a result staff felt it was in his best interest to let him know what was happening with the CTA as a courtesy. The master plan lays out where the 5% required civic space will be as well as the type of civic space and designates where the residential and nonresidential development will be. The master plan delineates what the requirements are based on the form-based code.

Board Member Alex Rickard questioned the problem and how to understand the lack of interaction between the uses; nonresidential and residential not mixing or if having residential first floor is the only way to resolve the issue and does staff lack the discretion in the current policy to require that. Are there other options to accomplish this?

Planning Director Pam Davison replied that there may be other options and that other options have been discussed and staff settled on this amendment as a solution.

Vice Chair Andy Petty followed up that he feels this amendment is resolving a problem with a problem and a universal 3,000 foot separation creates additional problems. He provided a few sample potential problems because of this amendment including how we deal with developments in neighboring jurisdictions, expandability of existing projects, and existing nonconformities. He stated that we need to find a way to fix the form-based zoning by requiring the developers to meet the intent as well as the numbers. He explained how other municipalities filter the requirements. Mr. Petty stated that this is a temporary fix and we need to figure out what we are trying to achieve and how do we resolve the problem by identifying what is not working and fix that. Is there a way to fix the form-based code to get what we want in these areas instead of a blanket solution?

Planning Director Pam Davison stated that there are ways to use the tools we have to get to the same end product and feels that it is a fair question. She added that

there is already language in the code pertaining to existing projects and nonconformities.

Vice Chair Andy Petty asked if there is a way within the code that says only multi-family is allowed in a PUD district similar to that of a mobile home in RA districts, which forces a rezoning for multi-family?

Board Member Jay Adcock stated that this amendment is like a punishment to some people that own land and waited out to sell it. It could force people that have sat on their land into a situation of not being able to sell it.

Vice Chair Andy Petty stated that if the market opens and decides that multi-family is desired, this amendment will stop it because of the location of existing units.

Board Member Barbara Marchioni asked what the term "multi-family" means to the Town?

Planning Director Pam Davison replied that it means apartments only, townhomes are excluded.

Board Member Barbara Marchioni asked if she could build townhomes across from apartments?

Planning Director Pam Davison replied that would not be a problem.

Board Member Barbara Marchioni stated that she had a concern with the last sentence of the text amendment "There will be no exemption to the standard" does that mean no exemptions at all?

Planning Director Pam Davison replied that it is based on the zoning districts and in response to that is currently mixed-use and form-based development are exempt from this standard. Everyone is included in the 3,000 separation requirement.

Board Member Barbara Marchioni asked for a better understanding of mixed-use development standards as it relates to a quadplex.

Planning Director Pam Davison explained quadplex can flip flop; a quadplex can fall under the apartment zoning as a mixed-use product or a quadplex can fall under single family development along with triplex, duplex, single family, and townhome.

Planning Director Pam Davison explained that there are a number of apartment projects coming into the town. Looking at the attached map there are still several apartment developments being built.

Board Member Jim Chandler stated that it is a big and quick change and wishes the Board had more time to consider. It seems to be more of a dissatisfaction in the form-based product and would like to see more room, if we are not happy with form-based then we put more teeth into that through rezoning. He closed by saying he feels that we can do things a better way to address the issue.

Board Member Michelle Peele stated that she agrees with everyone and asked where the 3,000-foot number came from?

Planning Director Pam Davison replied that staff looked at the pattern of development currently being developed along the corridors and the 3,000 feet was from some of the natural development patterns that are already occurring.

Board Member Alex Rickard stated that his preference when there is a problem is that it would be helpful to have more time and provide options with a pro vs con approach. The second problem is normally this is a housekeeping clean up, but citizens need the opportunity to review changes and feels that text amendments should be posted for people to review.

Vice-Chair Andy Petty stated that we have all focused on one piece of the text, but the whole amendment is nine (9) pages long.

Planning Director Pam Davison addressed the two (2) issues presented by Board Member Rickard, responding that staff and management have gone through several options and decided that this was the best option and second, that moving forward the Town will put more detail in the newspaper ad as well as utilize technology to make proposed changes available to the public.

Board Member Alex Rickard suggested that since all these tools and options were a part of the discussion that the information be relayed in the staff report so that the board is aware decision and why.

Assistant Town Manager Jim Seymour stated that he along with the Planning Director Pam Davison, Town Manager Adam Mitchell, members of the Town Board and local developers have been in discussion for the last 6-12 months trying to understand what is the best approach to ensuring sustainable development along the Town's major corridors. Asst. Town Manager Seymour noted that in development, you only get one shot at development. He stated that staff is not opposed to multi-family development. Multi-family development would be allowed between 0 feet to 3,000 feet if the multi-family development project includes vertical mixed-use development with non-residential on the first floor and residential above. He acknowledged Chair Ridpath's comments and agreed that the Town is concerned for the aesthetics along the community's major thoroughfares and corridors. 3,000 ft from property line to property line is not that far as one might think and staff believes this distance and separation between garden-style apartments is in the best interest to protect and preserve the look according to the Land Use Plan. The Town wants to challenge developers to present creative, marketable projects that benefits the entire community. Although developers may wish to build a product that is economic feasible today directly for the developer, it might not be part of the Town's overall vision for which it intends to achieve which includes separated and is something that the Town may want to hold out for. The proposed text amendment does not specifically speak to any one property or project but instead is keeping in line with what the Town's Land Use Development plan is willing to achieve.

Chair Ed Ridpath stated that he will suggest the text amendment be tabled until the next Planning Board meeting with the expectation that this be a deeper discussion.

Board Member Alex Rickard asked if the Planning Board votes to table an item can staff carry that item on to the Board of Commissioners?

Attorney James Adcock replied that there is a provision in the code that states if the Planning Board does not act on an item within a certain period of time, it can be sent on to the Board of Commissioners for consideration.

Vice Chair Andy Petty asked if there is a way to break out the one piece of the amendment that is an issue?

Chair Ed Ridpath stated that if we pass it on to the Board of Commissioners that the Planning Board may never see it again.

Board Member Jay Adcock stated that being a landowner and living in Fuquay-Varina ETJ for the last 61 years, that this affects him in a negative way, but everything else looks good.

Motion – Table to the November 16, 2020 Planning Board Meeting.

MOTION: Jay Adcock
SECOND: Barbara Marchioni
MOTION RESULTS: Motion Passed Unanimously 7-0

Agenda Item No. 5.A: Preliminary Subdivision Plat - Maelyn Ridge - SUB-PR-2020-08

Purpose - The purpose of this agenda item is to consider a preliminary subdivision plat submitted by Bass, Nixon & Kennedy, Inc., called Maelyn Ridge Subdivision, located at 805 Coley Farm Road.

Staff Comments – *Planning Director Pam Davison* entered the agenda abstract and supporting documents for this agenda item into the official record of the Town.

Recommendation – The proposed preliminary subdivision plat meets all Town requirements, as such staff recommend approval.

Vice Chair Andy Petty stated that in the site use table the minimum common green area is 10,056 square feet, however the actual plan shows 12,059 square feet and may want to get it cleared up in case an amendment is required later. The second comment was about the Lot 14 stub street and firetruck access; right now, a temporary access is being called out. Do you hold Lot 14 as a condition of the plat?

Planning Director Pam Davison replied that she thinks so; that turn around would have to remain until that the road continued. She stated that they would probably not release the building permit for that lot.

Chair Ed Ridpath asked if the handicap parking was for the mailbox kiosk?

Planning Director Pam Davison replied that what is shown for the mail kiosk parking falls under the typical on street parking and mailbox requirements from the ordinance and added that the location was approved by the post office.

Motion – Recommend approval of the Maelyn Ridge preliminary subdivision plat SUB-PR-2020-08, as presented and recommended.

MOTION: Andy Petty
SECOND: Alex Rickard
MOTION RESULTS: Motion Passed Unanimously 7-0

ADMINISTRATIVE REPORTS

Agenda Item No. 6.A: Staff Report

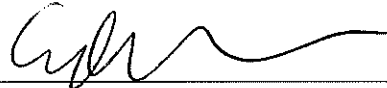
Chair Ed Ridpath pointed out that the staff report reflects the Town Board of Commissioners approved all petitions as recommended by the Planning Board.

ADJOURN

A motion was made to adjourn the meeting at 7:27 p.m.

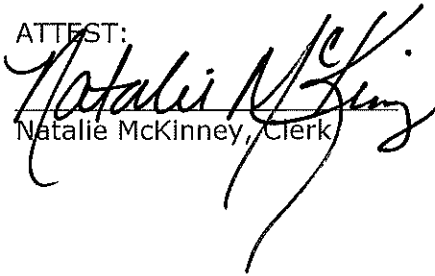
MOTION: Jay Adcock
SECOND: Barbara Marchioni
MOTION RESULTS: Motion Passed Unanimously 7-0

FUQUAY-VARINA, NORTH CAROLINA



Ed Ridpath, Chair

ATTEST:


Natalie McKinney, Clerk