

**GUILFORD COUNTY
PLANNING AND DEVELOPMENT
PLANNING BOARD**

Regular Meeting Agenda

NC Cooperative Extension – Agricultural Center
3309 Burlington Road, Greensboro, NC 27405

October 9, 2024

6:00 PM

Call to Order

Chair Donnelly called the meeting to order at 6:00 p.m.

I. Roll Call

The following members were in attendance in person for this meeting:

James Donnelly, Chair; Guy Gullick, Vice-Chair; Jason Little; Dr. Nho Bui;
Ryan Alston; David Craft; and Cara Buchanan

The following members were absent from this meeting:

Sam Stalder and Rev. Gregory Drumwright

The following Guilford County staff members were in attendance in person for this meeting:

J. Leslie Bell, Planning and Development Director; Oliver Bass, Planning and Zoning Manager; Avery Tew, Planner I; and Matthew Mason, Chief Deputy County Attorney

II. Agenda Amendments

None

III. Approval of Minutes: September 11, 2024

Mr. Gullick moved to approve the minutes of the September 11, 2024, meeting, as corrected per Mr. Donnelly, seconded by Mr. Little. The Board voted unanimously in favor of the motion. (Ayes: Donnelly, Gullick, Craft, Little, Alston, Buchanan, Bui. Nays: None.)

IV. Rules and Procedures

Chair Donnelly provided information to everyone present regarding the Rules and Procedures followed by the Guilford County Planning Board.

V. Continuance Requests

None

VI. Old Business**A. REZONING CASE #24-08-PLBD-00093: RECONSIDER THE PLANNING BOARD MOTION ON SEPTEMBER 11, 2024, TO REMAND SUMMERFIELD DEANNEXATION INITIAL ZONING**

Oliver Bass stated that this is for the Planning Board to reconsider its motion on September 11, 2024, to remand the initial zoning on the Summerfield de-annexation to staff.

Chair Donnelly stated that for the last several meetings, the Board has been working on the zoning for the Summerfield properties that were de-annexed by the NC Legislature. At the last meeting, the Board made a motion on a specific request remanding to the staff that the Board wanted the rezoning brought back to them. One of the things that has been really important as they have gone through this process is the staff had articulated for the Board a set of five (5) principles that staff identified to try to make sure that they have the opportunity to meet a number of compatible objectives around trying to come up an initial zoning that met a variety of criteria. As this is a County-initiated zoning, the intent is to try to meet those as well as they can, recognizing that there is a balance of needs and to make sure that they have a majority of members of the Planning Board who can support that initial zoning. Based on the motion last time and the vote that they had, there is still a way to go to get to a place that more closely meets those principles. What is before the Board tonight is an opportunity to reconsider that motion, to give a little more flexibility. The property owner has identified that they are willing to exclude multi-family housing from the GB district where that may come into play, and in talking with staff, there is an opportunity to again bring before this Board something that gives the opportunity to most closely meet those different principles. The Board will not consider any outcomes tonight, simply considering whether or not the Board wants to provide direction to the staff that is different from the last meeting they attended. In response to a question posed by Mr. Craft, Chair Donnelly stated that what is required for the Board, is to make a motion that amends that direction.

Counsel Mason stated that he thinks what is anticipated here is an amendment to the motion that occurred last time, so that the matter would still be remanded to staff, but the amendment would have to do with the instructions that staff was given in terms of what they were to bring back to the Board for subsequent Public Hearing. A motion to amend a prior motion

like that can be brought by any member of the Board. If, on the other hand, it was a motion to reconsider the whole thing rather than merely to amend, it becomes more important to have someone who voted for the first motion to do it. He thinks the most appropriate way to address it would be to have a motion on the floor and a second, and then discussion before a vote is taken.

Ms. Buchanan moved to amend, in part, the direction previously given staff during the September 11, 2024, Planning Board meeting, in its motion to remand conditional initial zoning Case # 24-08-PLBD-00093, Summerfield de-annexation original zoning, the proposed amendment is as follows: Concerning parcels #149642, 149651, 149688, 150130, 149659, 149643, 149645, 149653, 149658, 217566, 149662, the Board will remand the case and direct staff to explore other options for the establishment of zoning of the identified parcels and all other parts of the Board's decision will remain unaffected by this motion to amend. Mr. Gullick seconded the motion. Ms. Buchanan stated that the Board agrees at this point that Mr. Couch is willing to remove the multi-family segment of General Business. She feels that previously, they were all in agreement that the General Business would be okay for these parcels. She asked if there were a few that they still had questions on.

Chair Donnelly stated that other questions would be part of their consideration on a subsequent special meeting and would not be considered at tonight's meeting. If this motion is approved tonight, a Special meeting would be scheduled, and the Board would consider at that meeting a new proposal from the staff for the initial zoning of those parcels. That meeting would be noticed and have a packet just like any meeting, so that everyone would have an opportunity to review the information.

The Board voted unanimously 7-0 in favor of the motion. (Ayes: Donnelly, Gullick, Little, Bui, Buchanan, Craft and Alston. Nays: None.)

Chair Donnelly stated that there will be a Special Meeting held on Wednesday, October 23rd at 6:00 p.m. to be held at the Ag Center to review a new proposal from staff for the initial zoning of parcels under the Summerfield zoning amendment. He thanked staff and everyone involved for all their hard work in this particular matter.

VII. New Business

Legislative Hearing Item(s)

- A. EASEMENT CLOSING CASE #24-08-PLBD-00090: 1458 NC HWY 61 S (PEACEHAVEN FARM) (APPROVED)**

Oliver Bass, Planning & Zoning Manager, Guilford County Planning Department, stated that this is an easement closing Case #24-08-PLBD-00090, 1458 NC Hwy 61 S. (Peacehaven Farm). It is a request to adopt a resolution to close approximately 0.67 acres of a Water Quality Control Easement (WQCE), located on Lot 2 as shown on Plat Book 185, Page 85 and located in Rock Creek Township on Guilford County Tax Parcel #106945, approximately 1.5 miles south-southwest of the overpass of NC Highway 61 South over Interstate 85 North / 40 East.

This request is linked to Site Plan Case #24-07-SITE-00085 for the Peacehaven Farm community. A copy of the TRC comment sheet is attached. The location of the easement area to be removed and approximately relocated is shown on the enclosed map labeled "Site Plan 3." A Resolution of Intent was adopted on September 11, 2024. A draft of the edited version of the easement closing was presented to each Board member for their review. The map of the enclosed site plan and the location of the easement to be removed are shown on the southeast portion of the property, and the approximate location of the substitute easement is on the northwest portion of the property, as indicated by the two (2) arrows on the site plan shown on the slide presentation.

Pursuant to the NC General Statute 153(a)-241 concerning closing of public easements, the Board must hold a public hearing before the easement can be closed. Based on the information presented at the hearing, the Board must find that the closing of said easement is not contrary to the public interest. The following findings for consideration must be found by the Board: 1) The Planning Department has received a request to close approximately 0.67 acres of a WQCE easement located on Lot #2, as shown on Plat Book 185, page 85, located in the Rock Creek township; and 2) At the September 10, 2024, TRC meeting, staff determined that the closing of said easement is not contrary to the public interest with comments. A new WQCE will need to be recorded on an undeveloped portion of the property with an acreage greater than or equal to the acreage of the easement proposal. The new easement shall be located in a manner to protect slopes lying adjacent and parallel to a natural drainageway or stream. A copy of the TRC comments is attached to the staff report. The location of the easement area to be removed and approximately relocated is shown on the map labeled "Site Plan." Also, it is noted that per Guilford County Tax records, Brenda Clapp Wade and Richard Plymouth Wade, Jr., listed owners for Tax Parcel #106949 (1444 NC Highway 61 S, Whitsett, NC 27377), as the owners of property adjoining the easement, did not join in the request to have the easement closed by signing the petition, were sent a copy of the Resolution of Intent to close the public easement(s) by certified mail (#7020 3160 0000 2281 7247) on September 27, 2024.

Chair Donnelly asked if there was anyone wishing to speak in favor of this request.

Brent Sievers, FEI Engineering, represents the property owners. His address is 8518 Triad Drive, Colfax, NC. He stated that he was at the meeting to answer any questions the Board members might have. Mr. Sievers stated that the easement has to be removed because of the street crossing to get to the rear of the property, and it was deemed by the Planning staff for the Watershed that they had to move it to some other location. The owners propose moving it over to a stream buffer adjacent on the other side of the property that has no intention of ever being disturbed. This easement comes from a list of requirements in the Ordinance that pertains specifically to steep slopes, so this is the first time he has ever been asked to remove one, but it happens.

Chair Donnelly asked if there were other speakers in favor or in opposition, and no one came forward. He asked for a motion to close the public hearing.

Mr. Craft moved to close the public hearing, seconded by Mr. Little. The Board voted unanimously 7-0 in favor of the motion. (Ayes: Donnelly, Gullick, Little, Bui, Buchanan, Craft and Alston. Nays: None.)

Discussion

Chair Donnelly asked if there was any discussion from the Board members, and no one had any questions, so he asked for a motion.

Mr. Gullick moved, with respect to the petition to close an easement in planning Case# 24-08-PLBD-00090, finding that the removal of the easement in question for the dedication is not contrary to the public interest, to adopt the Resolution for closing and removing from dedication a public easement as presented by staff, subject to adding to the Resolution that the easement shall be deemed closed and removed from dedication to the public use, effective upon approval of recordation of the plat dedicating an appropriate substitute easement, seconded by Ms. Buchanan. The Board voted unanimously 7-0 in favor of the motion. (Ayes: Donnelly, Gullick, Little, Bui, Buchanan, Craft and Alston. Nays: None.)

- B. UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT CASE #24-09-PLBD-00097: AN AMENDMENT TO ARTICLE 4 (ZONING DISTRICTS), SECTION 4.9.F.5.c TO REQUIRE A VARIANCE BEFORE AN EXEMPTION CAN BE GRANTED TO THE SIDEWALK REQUIREMENTS UNDER THE LIBERTY ROAD/WOODY MILL ROAD VICINITY OVERLAY DISTRICT REGULATIONS (APPROVED-RECOMMENDED)**

Oliver Bass stated that Case #24-09-PLBD-00097, to modify Article 4 (ZONING DISTRICTS), SECTION 4.9.F.5.c of the Unified Development Ordinance. The Planning Staff prepared an amendment to Article 4, of the Guilford County Unified Development Ordinance, reference as Sub-Section 4 in Chapter 15, of the County Code of Ordinances. The modified Section 4.9.F.5.c is to remove the authority of the Technical Review Committee (TRC) to waive sidewalk requirements under the Liberty Road/Woody Mill Road Vicinity Overlay District requirements and provide that any request to exempt sidewalk requirements will be considered an application for a variance from the Board of Adjustment pursuant to Section 3.5.W, which relates the variances. In regard to consistency with adopted plans, the proposed amendment is consistent with the Guilford County Comprehensive Plan, Future Land Use Element, Policy 1.6.2, which states, "Recommend Development Ordinance amendments and Area/Quadrant Plan changes to support and implement regional plans endorsed and adopted by Guilford County."

Staff recommends approval. The recommended action is reasonable and in the public interest because it is consistent with the Guilford County Comprehensive Plan Future Land Use Element— Policy 1.6.2, as previously stated. It aligns with the statutory requirements of NCGS 160D-406 regarding quasi-judicial proceedings for discretionary decisions. It is consistent with the intended role of the TRC when the Guilford County Board of Commissioners initially established it, as reflected in the minutes of January 3, 1985.

Chair Donnelly asked if there was anyone wishing to speak in favor of or in opposition to the text amendment explained by staff, and no one came forward.

Discussion

Mr. Craft asked what brought this to light. Oliver Bass responded that staff noted that there was a requirement for sidewalks along roads in the Liberty Road/Woody Mill Road area. The TRC was asked to waive those requirements. The UDO authorizes the TRC to waive those requirements subject to physical hardship, topography, and other discretionary standards. That is not the role of the TRC. The TRC mainly serves an administrative function.

Chair Donnelly stated that this overlay went in place before the new ordinance, and so that is also where that conflict would have come up, and now they are getting the ordinance to reflect what could have been done in the beginning. Mr. Bass concurred with that explanation.

The public hearing was opened and asked for a motion to close the hearing as there was no one wishing to speak. Mr. Gullick moved to close the public

hearing, seconded by Dr. Bui. The Board voted unanimously (7-0) in favor of the motion. (Ayes: Donnelly, Gullick, Little, Bui, Buchanan, Craft and Alston. Nays: None.)

Chair Donnelly asked for a motion on the requested proposed text amendment.

Mr. Gullick moved to approve text amendment Case #24-09-PLBD-00097, as the text amendment as proposed is consistent with the Guilford County Comprehensive Plan and the Future Land Use Element Policy 1.6.2, which states "Recommended Development Ordinance amendments and area quadrant plan changes to support and implement regional plans endorsed and adopted by Guilford County. The action is reasonable and in the public interest because it is consistent with the Guilford County Comprehensive Plan, Future Land Use Element— Policy 1.6.2. It aligns with the statutory requirements of NCGS 160D-406 regarding quasi-judicial proceedings for discretionary decisions. It is consistent with the intended role of the TRC when the Guilford County Board of Commissioners initially established it, as reflected in the minutes of January 3, 1985, seconded by Ms. Buchanan.

The Board voted unanimously 7-0 in favor of the motion. (Ayes: Donnelly, Gullick, Little, Bui, Buchanan, Craft and Alston. Nays: None.)

C. UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT CASE #24-09-PLBD-00098: AN AMENDMENT TO ARTICLE 3 (PERMITS AND PROCEDURES), SECTION 3.5.M AND 3.5.V TO ADJUST REQUIREMENTS TO ADOPT STATEMENTS OF PLAN CONSISTENCY, REASONABLENESS, AND PUBLIC INTEREST BY THE PLANNING BOARD AND BOARD OF COMMISSIONERS TO ALIGN WITH THE STATUTORY REQUIREMENTS OF NCGS 160D-604 AND 160D-605. (APPROVED – RECOMMENDED)

Oliver Bass stated that this text amendment is relevant to text amendment Case #24-09-PLBD-00098: An amendment to Article 3 (PERMITS AND PROCEDURES), SECTION 3.5.M AND 3.5.V to adjust requirements to adopt statements of plan consistency, reasonableness, and public interest by the Planning Board and Board of Commissioners to align with the statutory requirements of NCGS 160D-604 AND 160D-605.

The Planning staff prepared a text to amend Section 3.5.M.4 and Section 3.5.V of the Unified Development Ordinance, to adjust the requirements for the Planning Board and Board of Commissioners to adopt a statement of plan consistency and a statement of reasonableness and public interest when adopting or rejecting any zoning text or map amendment consistent with the requirements of NCGS 160D-604 and 160D-605.

The Guilford County Comprehensive Plan (effective October 1, 2006) Future Land Use Element Policy 1.6.2. which states, "Recommend Development Ordinance amendments and Area/Quadrant Plan changes to support and implement regional plans endorsed and adopted by Guilford County." Staff recommends approval. The recommended action is reasonable and in the public interest because it is consistent with the Guilford County Comprehensive Plan (effective October 1, 2006) Future Land Use Element— Policy 1.6.2. It is consistent with the statutory requirements outlined in the provisions of NCGS 160D-604 and NCGS 160D-605.

Chair Donnelly invited attorney Mason to just make a summary, since there is a fair amount of strikethroughs in this, with the focus on those adjustments by staff.

Counsel Mason stated that the common denominator among most of the red lines is that they are attempting in the provisions that are edited here to talk about the Planning Board section dealing with what is required for zoning amendments. With respect to a text amendment, this Board's role is essentially advisory to make a recommendation to the Board of Commissioners. With respect to zoning map amendments, it is different; this Board actually has decision-making authority, subject to rights of appeal, and simple majority vote, and so forth. It was basically making sure that the language was consistent with that, so that it is referring to a recommendation where it needs to be a recommendation, and not where it would be a Planning Board actual decision.

In response to a question posed by Mr. Craft, Counsel Mason stated that the Session Law that is referenced there is the one that allows the Commissioners to allow the Planning Board to make zoning map amendments and rezonings. There isn't an authority like that to allow this Board to enact text amendments.

Chair Donnelly stated that when this Board considers a zoning request or a rezoning request, if there is a super majority, that action is considered final. If they don't have a super majority, it goes to the Commissioners as a recommendation for their final decision.

Counsel Mason stated that he suspects that the language in the blue box is intending to talk about the fact that with respect to a rezoning, depending on the vote of the Planning Board, it is either a recommendation or it's a final decision.

Chair Donnelly opened the public hearing and asked if there was anyone wishing to speak either in favor or in opposition to the proposed text amendment, and no one came forward. Ms. Buchanan moved to close the

public hearing, seconded by Dr. Bui. The Board voted unanimously (7-0) in favor of the motion. (Ayes: Donnelly, Gullick, Little, Bui, Buchanan, Craft and Alston. Nays: None.).

Chair Donnelly pointed out that there was someone in the audience who was interested in following the proceedings and there was not anything related to the text amendments before the Board.

Discussion

Counsel Mason stated that he wanted to make sure that he had made things clear concerning the questions posed by the Board members. He was speaking to the edits that he had made to the original version of this text amendment that was in the packet. When they back up to that original text amendment, one of the key things there that this is all aimed at is that for both text amendments and zoning map amendments, you are required to have a Plan consistency statement in there. With respect to a zoning map amendment, you are also required to have a reasonableness statement, and that reasonableness statement requirement, by Statute, does not apply to a text amendment, so this is cleaning up that piece of things, too. He thinks that was probably the original motivation for it.

Chair Donnelly asked for a motion on this text amendment.

Mr. Gullick moved to approve text amendment Case #24-09-PLBD-00098. He moved that the Board finds the text amendments, as proposed, are consistent with the Guilford County Comprehensive Plan Future Land Use Element Policy 1.6.2, which states, "Recommend Development Ordinance amendments and Area/Quadrant Plan changes to support and implement regional plans endorsed and adopted by Guilford County." The recommended action is reasonable and in the public interest because it is consistent with the Guilford County Comprehensive Plan (effective October 1, 2006) Future Land Use Element— Policy 1.6.2. and is consistent with the statutory requirements outlined in the provisions of NCGS 160D-604 and NCGS 160D-605, and the Board recommends the adoption of the text amendments to the Board of Commissioners. The motion was seconded by Mr. Alston. The Board voted unanimously 7-0 in favor of the motion. (Ayes: Donnelly, Gullick, Little, Bui, Buchanan, Craft and Alston. Nays: None.)

VIII. Other Business

A. Comprehensive Plan Update

Leslie Bell stated that staff has gotten the comment-by-comment responses back to the Comprehensive Plan, and they have been summarized, and there is a summary. They met with the Design Workshop yesterday, and Mr. Gullick and Mr. Donnelly, if you didn't receive it yesterday, there will be

responses coming to you very soon. The next step will be, after the review, staff will get those to the Chairman, Mr. Sims, Mr. Donnelly, and at that point set up a meeting with you all to determine, as the Steering Committee had indicated a month or so ago, to let the representatives of the Steering Committee, including Mr. Donnelly and Mr. Gullick as representatives of the Planning Board, to make the decision if they need to send anything back to the Steering Committee, or they had given you the authority to review that to see if any of those comments could be addressed without going back to the Steering Committee. The next step is that you all will get it, but he is just asking the consultants to do a couple of things with the data that they have on some mapping first, like where the responses came by zip code, so they could see what areas of the County to determine exactly how they move forward from there.

Leslie Bell stated that the next major step will be it coming to the Planning Board for review and then a recommendation to the Board of Commissioners.

Chair Donnelly asked if there were any other items of business from the staff. Mr. Bell stated that there were no other matters to discuss.

Chair Donnelly stated that at the end of the last meeting there were a number of folks who recognized that a preference would be not to find themselves in the position of meeting that late at night in the future. The Board has the opportunity to make that decision as the meeting progresses, and when dealing with a Special Use Permit, there may be special witnesses that have been invited in, and so there are some additional costs associated with that for the applicant or anyone who may be opposed to it, and there are additional costs to the staff. Something else that they could consider, in conversations with Mr. Bell, is adding to the Rules and Procedures a note that says something like, "The Planning Board reserves the right, should the proceedings extend beyond XX time, to continue this to a future meeting", as a way to formalize that as a preference for the Board. He asked if any of the Board members might want to speak on this matter.

Counsel Mason added that he thinks whatever the Board might do, that they would want to structure it flexibly. Now, the Board has flexibility, and he thinks that should be maintained, because at 10:00, if you only have one (1) witness left, or at 10:00, you have a dozen (12) witnesses left, the decision is probably going to be completely opposite on those. Each situation is going to be different.

Chair Donnelly asked if the Board would like for staff to bring some suggestions to the Board on how to handle that type of situation.

Leslie Bell stated that the Rules and Procedures are done under the umbrella of the Policy of the appointed Boards. He will look at that, but he does not remember it speaking to standing, although they do address quasi-judicial in that Policy. He is unsure if it goes as deep as determining standing.

Chair Donnelly asked that they go back to the discussion concerning whether or not they want to do anything more formal around putting a potential end point on the meetings. He thinks it is important for them to recognize that they do have that power already and is there value in articulating it as a part of their Rules and Procedures, just to make folks aware that the meeting will end at a certain time?

Mr. Gullick stated that he feels it would be an advantage to the parties getting that information before they come to the meeting, so they might be able to brief their witnesses on a time limit.

Leslie Bell stated that staff could actually put those Rules and Procedures online to provide that information to everyone. Mr. Gullick asked if it could be added to the application; that way they would know about it upfront. Leslie Bell stated that he would look at doing that. Staff can work with attorney Mason on that.

Chair Donnelly stated that he would be happy to work with staff on this and bring something back when they feel they have something that would be appropriate.

Chair Donnelly stated that he did not have anything else to address and he would move to adjourn this meeting.

IX. Adjourn

There being no further business before the Board the meeting adjourned at 7:11 p.m.

A called special meeting will take place October 23, 2024.

The next regular meeting will take place November 13, 2024.