

MINUTES
BURKE COUNTY PLANNING BOARD
May 23, 2019

The Burke County Planning Board met on Thursday, May 23, 2019 at 5:30 PM in the Commissioners Meeting Room, located at 110 N. Green Street, Morganton, North Carolina.

MEMBERS PRESENT:

Alan Scholl
Richard Evey
Gary Kling
William Tunstill

MEMBERS ABSENT:

Bobby Costner

STAFF PRESENT:

Peter Minter, Sr. Planner; Jennifer Forney, Planner

CALL TO ORDER:

Chairman Scholl officially called the Burke County Planning Board to order at 5:34 PM.

APPROVAL OF THE MINUTES:

A motion for approval of the April 25, 2019 minutes, as presented, was made by Richard Evey and was supported by Gary Kling. The Board granted approval by a 4/0 vote.

PUBLIC MEETING

ZONING MAP AMENDMENT (ZMA 2019-05) - BURKE COUNTY IS PROPOSING TO REZONE THIRTEEN (13) PARCELS OF LAND CONSISTING OF APPROXIMATELY 596 ACRES FROM THE PLANNED RESIDENTIAL MIXED-USE – CONDITIONAL DISTRICT (PRMU-CD) TO THE LOW-DENSITY CONSERVATION DISTRICT (CD-L). THE PROPOSED REZONING WILL ALSO REMOVE THESE PARCELS FROM THE EAST LAKE DEVELOPMENT PLAN.

Report by Planning Department

The Board was provided with a staff report prior to the meeting. Peter Minter gave an overview of the report at the meeting.

Public Comment

Lee Zinzow, Adjoining Property Owner:

Mr. Zinzow has 21 ½ acres of land under his name included in this rezoning request and a fiduciary interest in other property under a trust that he manages but does not own. Mr. Zinzow said that he was involved in this project for about 5 years. Mr. Zinzow was concerned that a change in the slope of some of the proposed property would allow more density than he felt was good for the area and he was interested in keeping the lake preserved and a proper fashion. Mr. Zinzow emphasized that for five years he has tried to position the land to be transferred to the State Park, County Park, or some organization that would preserve the land properly. According to Mr. Zinzow, he has developed a committee consisting of the Lake James Environmental Association, the Catawba Keepers, and others to investigate his plan and he has passed all the recommendations from Foothills Conservancy to try to maintain the land properly. Mr. Zinzow said he didn't know until November of 2018 that if the land goes to the State Park the County's regulations would not apply. Mr. Zinzow felt the best way to go about preserving the land was

through a conservation easement, but an application was made for fee only which would not do for that kind of protection. Because of that transaction Mr. Zinzow could not finalize the pricing by year end last year. Therefore, it was decided that a conservation easement was needed. Mr. Zinzow stated that he would like to do what the county is doing with this rezoning but through different means that would generate tax benefits that could be donated to the park so that the state park could get the land. That according to Mr. Zinzow, is his main interest to know that if the state park doesn't get the land at least it's in good hands. Mr. Zinzow would like to talk to someone about why what he is proposing would be more beneficial than the proposed rezoning.

Scott Carpenter, Deputy County Manager:

Mr. Carpenter explained that the terrain in the proposed rezoning area is very mountainous. There have also been dozens of phone calls in support of the rezoning.

Lee Zinzow, Adjoining Property Owner:

Mr. Zinzow wanted it understood that he is trying to do the same thing as the rezoning would do with one exception. He claims that if done with conservation easements before the land is transferred, the value can be used as a donation toward the state park or county park that you cannot get with a rezoning. That is the reason why Mr. Zinzow is opposed to the rezoning. Mr. Zinzow stated that the offering price for the property was approximately \$4,000,000. When asked by the Board if he stood to benefit from sell he said he would repay a loan that he took out so it would not benefit him. He said the appraised value was \$6,000,000 and he would have to find a way to make up that difference and that could be done with a conservation easement.

Board Discussion

Following the public meeting the Board discussed the following issues pertaining to the case

- A. The number of parcels proposed
- B. Citizen response to the rezoning
- C. How rezoning will affect the trail
- D. Clarification on location of trail
- E. Benefits of proposed rezoning

Board Decision

Following the discussion, the Board reached the following decision:

- ✎ **Alan Scholl made a motion to approve ZMA 2019-05 – Burke County, A proposal to rezone thirteen (13) parcels of land consisting of approximately 596 acres from the Planned Residential Mixed-Use – Conditional District (PRMU-CD) to the Low-Density Conservation District (CD-L) and removing these parcels from the East Lake Development Plan. He was seconded by Richard Evey. The motion passed unanimously with a 4/0 vote.**

PUBLIC MEETING

ZONING MAP AMENDMENT (ZMA 2019-06) - BURKE COUNTY IS PROPOSING TO REZONE TWELVE (12) PARCELS OF LAND CONSISTING OF APPROXIMATELY 500 ACRES FROM THE PLANNED RESIDENTIAL MIXED-USE DISTRICT (PRMU) TO THE LOW-DENSITY CONSERVATION DISTRICT (CD-L). THREE (3) OF THE PARCELS WILL BE REZONED FROM THE RESIDENTIAL THREE DISTRICT (R-3) TO THE LOW-DENSITY CONSERVATION DISTRICT (CD-L).

Report by Planning Department

The Board was provided with a staff report prior to the meeting. Peter Minter gave an overview of the report at the meeting.

Public Comment

Aram Attarian, Adjoining Property Owner:

Mr. Attarian lives at 1225 Browning View Road. The Attarians purchased the property in 2005 and built a dairy farm there. He and his neighbors believe that the road on which they live is unique in that it is agrarian with its farms, nurseries and things of that nature and they feel that they should be able to keep that current PRMU. Mr. Attarian wanted to express the need for the zoning to remain what it is currently to maintain the character there. Mr. Attarian said that his neighbor was being rezoned to R-1 and his property was being rezoned something different, but they thought the character of the land was the same which was mainly agrarian except on the eastern end of Browning View Road where it meets Gwaltney Road. There are some residences on that end.

Robert Leslie

Mr. Leslie wanted to know what uses were allowed in the R-1 zoning district. He asked what the lot size would be to develop houses. He said that water was available but that he did not know if he could connect to it.

Jerry Dean Beck, Adjoining Property Owner:

Mr. Beck owns approximately 200 acres included in the rezoning request. He stated that his property was used for forestry and nothing proposed in the rezoning would really affect him. Mr. Beck received his notice of public meeting a week prior to the meeting and felt that was not enough notice and suggested that some adjoining owners were not in attendance because of the late notice. He said that Crescent Resources had never owned his land and he didn't know how Crescent could appeal to the County to change his zoning or if the County did it at their request. He commented that PRMU had a lot of business uses that would be gone if the rezoning occurred. He wanted to know if tracts of land less than three acres would be allowed to build a home.

Public Comment

Board Discussion

Following the public meeting the Board discussed the following issues pertaining to the case

- A. The affect of the proposed rezoning on surrounding property
- B. Plans for a community center within the rezoning district
- C. The allowed uses in the PRMU District
- D. The purpose of a PRMU Zoning District
- E. The Crescent Resources rezoning of 2004

Board Decision

Following the discussion, the Board reached the following decision:

- ✎ **Richard Evey made a motion to approve ZMA 2019-06 – Burke County, A proposal to rezone twelve (12) parcels of land consisting of approximately 500 acres from the Planned Residential Mixed-Use District (PRMU) to the Low-Density Conservation District (CD-L). Three (3) of the parcels will be rezoned**

from the residential three district (R-3) to the Low-Density Conservation District (CD-L). He was seconded by William Tunstill. The motion passed unanimously with a 4/0 vote.

PUBLIC MEETING

ZONING MAP AMENDMENT (ZMA 2019-07) - A REQUEST TO A 1.55-ACRE PORTION OF LAND FROM THE LOW-DENSITY CONSERVATION (CD-L) ZONING DISTRICT TO THE RESIDENTIAL ONE (R-1) ZONING DISTRICT., LANDDALY, APPLICANT.

Report by Planning Department

The Board was provided with a staff report prior to the meeting. Peter Minter gave an overview of the report at the meeting.

Presentation by Applicant

Chris Daly, Applicant:

Mr. Daly is the current owner of the Lake James Family Campground which is under contract to be sold. In the sales agreement Mr. Daly is to retain 1.55 acres and an additional 12 acres across the street behind the fire department. According to Mr. Daly there are approximately 175 people in the campground and the 1.55 acre portion of the property can be accessed by any of those people at this time. Rezoning the parcel to R-1 would allow Mr. Daly to retain the 1.55 acre portion and build a house there. Mr. Daly said the lots on Lake Ridge Court are all an acre or less and that the lot he wants to create is larger than all of them. Mr. Daly stated that there will be no commercial use on the property, just a house.

Public Comment

Mike Hunsucker, Adjoining Property Owner:

The Hunsuckers own the first R-1 lot on Lake Ridge Court adjacent to the proposed 1.55 acre lot. Mr. Hunsucker agreed with a lot of what Mr. Daly said but he was also concerned with what staff said. Mr. Hunsucker said that he heard staff say the goals around the lake were limited development and limited impact. He said staff stated more than once that R-1 had more impact than CD-L. He commented that Mr. Daly has owned the property for 7 years and has way more land than 1.55 acres and could easily meet the 3.5 acre minimum for CD-L. Mr. Hunsucker went on to comment about the expansion of the campground over the past 2 ½ years. He emphasized that no one knew what the new owners' plans were for the campground or their impact on the lake but that they were about making money which he had nothing against. Mr. Hunsucker is sure that there will be more development of the campground and the parcel across the road as well. Mr. Hunsucker mentioned staff's comment on the steepness of the lot and he isn't sure if Mr. Daly plans to pump septic into the lake. Mr. Hunsucker says he keeps hearing exception after exception and feels that if the property is rezoned the current 65-foot setback should go to 100 feet.

Wendell Sugg, Adjoining Property Owner:

Mr. Sugg lives at 2698 Lake Ridge Court. Mr. Sugg says his main concern is the narrowness of the proposed lot and the ability to have it remain as a buffer. He worries that the road is very close to the lake and if there is development there the road will be like driving across the dam. Mr. Sugg stated that the proposed 1.55 acres also provides a buffer between the residential neighborhood and the new part of the campground. Mr. Sugg says he can see that the zoning codes have restrictions that would prevent undesirable development on the property whether its R-1 or CD-L but he would rather see no development on the property at all.

Keith Antal, Adjoining Property Owner:

Mr. Antal is the President of the Homeowners Association for Lake Ridge Court. Mr. Antal says the neighborhood has put up with a lot of noise from the campground and they are concerned because it has continued to grow. Mr. Antal wanted to know why the rules should change to give Mr. Daly special privileges. According to Mr. Antal there are families of ducks, and turtles, and is one of the few places on the lake with wildlife. He fears the wildlife will be destroyed if someone builds there. He does not feel that Mr. Daly would be able to comply with the 65-foot setback there and cutting trees will kill the buffer. Mr. Antal stated that Mr. Daly has a lot of land and could have picked an area across the street and been able to meet the county's standards. Mr. Antal feels that now Mr. Daly wants to bend the rules to build a house when he had many opportunities to do that with multiple acres across the street. Mr. Antal says to him Mr. Daly looks greedy, that he made his money and now he's going to take the last bit of piece and buffer from the traffic and noise.

Chad

Chad says he was listening to everyone speak as he was looking at the map. He felt that anyone purchasing the campground would try to develop the 1.55 acres. Chad reasoned that they would be premium sites and that you might be able to get five sites located there. Chad said that having five RV sites there would be a dramatic change to the neighbor's buffer area compared to one home there. Chad said that if he was going to develop there, he would fill the area with RV sites.

Patsy Hunsucker, Adjoining Property Owner:

Mrs. Hunsucker worked for Fish & Wildlife back in early 2000 when all the lake shore management was in progress. She worked with some of the biologists that have since moved or they would probably be here. Mrs. Hunsucker's concern is that you have a property with trees and vegetation like the areas they were trying to conserve. She says hopefully the new owners would try to be good stewards to the lake and try to preserve this property. Mrs. Hunsucker does not want the lake to end up like Lake Norman. She feels that when property is zoned R-1 people come in and do not mind paying \$5,000 or what ever the County fines them for cutting down trees to get the view they want.

Chris Daly, Applicant

Mr. Daly says he's spent more money taking care of the lake than anyone in this room or anybody on the lake. Mr. Daly commented that he has spent \$1.5 million on septic and he is a steward of the lake also. He stated that he will have septic capacity for the new home through the existing septic system so there will not be any new septic. Mr. Daily said that this group of people were the pull the ladder up group who cleared the lots to get their homes built, but they've pulled the ladder up an don't want to let anyone else build there.

Robert Hodges, Adjoining Property Owner:

Mr. Hodges lives in Hemlock Court. He says that when Mr. Daly first came here, he had a public meeting and he asked Mr. Daly what he was going to do about the septic. He claims Mr. Daly said it was grandfathered in and he was going to use it, but thankfully Burke County saw fit to make him do a sewer system. Mr. Hodges stated that he knew Mr. Daly's intentions then were to make money, but he does not know what they are now. Mr. Hodges feels the lot is narrow, steep, and not buildable.

Board Discussion

Following the public meeting the Board discussed the following issues pertaining to the case

- A. Purpose of Recreational Campgrounds
- B. Setbacks for lake front lots
- C. Commercial zoning vs residential one zoning next to a residential subdivision
- D. Challenges to build on lot
- E. Possible uses of land
- F. Buffers on lake lots

Board Decision

Following the discussion, the Board reached the following decision:

- ✎ **Richard Evey made a motion to approve ZMA 2019-07 - A request to a 1.55-acre portion of land from the Low-Density Conservation (CD-L) Zoning District to the Residential One (R-1) Zoning District., Landdaly, Applicant. He was seconded by Gary Kling. The motion passed unanimously with a 4/0 vote.**

Chairman Scholl: The next meeting will be June 27, 2019. At this time, I will adjourn this meeting of the Burke County Planning Board.

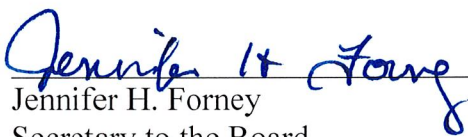
Note: *Verbatim minutes of this meeting are available upon request via recording in the Burke County Planning Office.*

Submitted by:

Jennifer Forney

Jennifer Forney
Planner

Approved this 27th day of June 2019



Jennifer H. Forney
Secretary to the Board



Alan Scholl, Chairman
Burke County Planning Board