

Cullowhee Planning Council
Minutes
March 2nd, 2020
6:00 p.m.
Burrell Building, Room 204
Southwestern Community College

Members	Present	Absent	Members	Present	Absent	Members	Present	Absent
Rick Bennett		X	Myrtle Schrader		X	Mike Byers	X	
Scott Baker	X		Joel Setzer		X	Jim Lewis	X	
Jack Debnam	X		David Claxton	X				

Staff Present

Michael Poston, Planning Director
 Caroline LaFrienier, Planner II
 Heather Baker, County Attorney
 Allison Kelley, Administrative Assistant

Call to Order

Chairman Scott Baker called the meeting to order at 6:00 p.m. and a quorum was present.

Additions to Agenda

Chairman Baker requested to add letter “B” “Text Amendment Discussion” under “New Business” to the agenda. Jack Debnam made a motion to approve the agenda with the addition of letter “B”. Jim Lewis seconded the motion and it passed unanimously.

Approval of Minutes

Jack Debnam made a motion to approve the minutes from February 3rd, 2020. David Claxton seconded the motion and it passed unanimously.

Public Comment- Sign-up sheet- 3 minutes per speaker

There were no public comments.

New Business

a) Public Hearing: Text Amendment to Unified Development Ordinance (UDO) Section 9.4.4 of the Cullowhee Community Planning District

Chairman Baker opened the Public Hearing at 6:03 p.m.

Mr. Baker inquired if there were any public comments regards the proposed text amendment. The public comments presented are as follows:

- Hiddy Morgan (Buzzards Roost Resident): Ms. Morgan asked the Council to consider amending Appendix J: Cullowhee Community Planning Area Development Standards, Article V: Special Uses and Uses Subject to Special Requirements, Section 5-1(t) Student rentals with a maximum number of unrelated persons in home shall be three unrelated persons if in a Single Family housing neighborhood. In addition, she requested to delete the standard that five unrelated person if a home is ¾ mile or less from WCU campus.
- Joesph Pechmann (Oak Forest Resident): Mr. Pechmann stated he is in support of the proposition to reduce the number of unrelated people than can live in a house, in an area

zoned single-family from five to three unrelated people within $\frac{3}{4}$ mile from WCU. He believes this amendment would make the definition of single family housing consistent across the Cullowhee Community Planning Area, and consistent with the regulations used in most places in Jackson County, the State of North Carolina, and elsewhere. Mr. Pechmann stated he was surprised to learn a few months ago that single family housing was defined differently in the area within $\frac{3}{4}$ mile of WCU by zoning regulations. This area includes all of his neighborhood Oak Forest, and nearly all of the Cullowhee Community Planning Area designated as single family residential. He stated single family neighborhoods near WCU, including Oak Forest should be treated the same way and given the same protections by zoning as other neighborhoods. He stated by limiting the number of unrelated people that can live in a single family zoned dwelling will keep single family residential districts from becoming taken over by students or other renters. Students and other renters are transient and do not have the same investment as family homeowners do in the long-term good of their house and community. In addition, student lifestyles are often not a good mix with those of families. He stated a neighborhood that becomes dominated by student rentals becomes undesirable for single families, and housing prices would drop accordingly. Mr. Pechmann believes that allowing five unrelated people to share a single family zoned house near WCU decreases the availability of affordable housing in Cullowhee. Those people that buy homes and rent to students are not renting at bargain prices. Rather, the landlords that turn these homes into student rentals will make money on them at the expense of the availability of affordable family housing for the community. He asked the Council to please give the neighbors of WCU the same protections for the character and quality of our neighborhoods as others by eliminating this exception to the definition of a family within three quarters of a mile of WCU.

- Catherine Carter (Oak Forest Resident): Ms. Carter stated she is in support of the proposition to reduce the number of unrelated people in a single family dwelling from five to three. In addition, North Carolina is one of the friendliest states in the country to unrestrained use of private property. However, if a developer wants to place an asphalt plant next to neighborhoods there are regulations restricting heavy industry, and North Carolina is your friend and sponsor. There is by no other means which they can restrict single family homes from becoming defacto student housing with the disadvantages heard by Mr. Pechmann. The community has heard from the Planning Director (Mike Poston) that enforcement of such ordinance and that notification to existing property owners is possible. In addition, she stated they have not heard any objections from property owners or students in prior meetings on this topic and strongly encouraged the Council to support this amendment.
- Wes Stone (Oak Forest Resident): Mr. Stone stated he lives in Oak Forest on the edge of Forest Hills and raised two children in their neighborhood and hopes to maintain that in their community so future generations can enjoy the same neighborhood. He is in support of the change of five to three unrelated people per single family dwelling.
- Gene Norton (Oak Forest Resident): Mr. Norton stated he had browsed through pertinent NC case law which involves the court's attempt to define the term "single family" for the purpose of resolving zoning or HOA disputes. One ruling from the NC Court of Appeals in 2007 (Danaher v. Joffee) case in Chapel Hill where several teammates played baseball for UNC sought single family status to meet the requirements of the HOA governing the home they were renting. He stated, the three-judge panel made it clear that the more daunting task of defining the word "family" as a whole was beyond their purview in the case. However, in rejecting the renters appeal, they did find that a single family must be a purposeful "integrated unit" which appears "permanent and stable." Mr. Norton quoted the presiding judge, *"I do not believe that a group, the identity of whose members could change that only intends to live together for a limited period of time has the permanence and stability necessary to be considered as single family."*

Mr. Norton stated this had been his primary argument in earlier addresses before the Cullowhee Planning Council and Jackson County Planning Board. He thanked both the Council and Board for their attention and recent actions to amend their definition of what defines a single family. A family cannot be defined as just any group of unrelated people who simply share responsibilities. There must be some greater “integrated” purpose, which applies in the same manner when defining “school” or “church.” Much like families, these institutions must do chores and pay bills, but that is not what defines them.

He stated it is hard to define what a family truly is as any adult couple who wish to be called a family must be considered. In addition, if we wish to add a third unrelated party who has always been “part of the family,” that is being generous. However, he stated that defining single family for any greater number of totally unrelated persons is simply a violation of what anyone would consider to be the real meaning of the word “family.”

- Karen Kandl (Oak Forest Resident): Ms. Kandl thanked the Council for considering changing the number of unrelated individuals living in single family housing to no more than three individuals in the Cullowhee zoned areas regardless of their location. It is disingenuous that single family housing should mean a whole posse of unrelated people living in a single dwelling. She stated it should not matter whether or not the dwelling is close to or further from WCU. Ms. Kandl stated that some people suggest that the limit not be changed because limits such as these are impossible to enforce, which is not the case as the county has enforced this in the past. In addition, other communities enforce limits such as these, and believes this community can do the same. Others argue that these types of limits would hurt developers and people buying property for rentals. Not having these limits hurts the people that bought houses in the neighborhoods because those neighborhoods were quiet and relatively free from students. Ms. Kandl stated the Council is here to serve both the existing community and the future of the community. The limit of no more than three unrelated people in a single family unit would serve the community. It would help protect the quality and character of the existing neighborhoods, and would not harm developers if their intent is to build single family housing.

Chairman Baker closed the Public Hearing at 6:13 p.m.

b) Text Amendment Discussion

Chairman Baker asked the Council to review the draft amendment that was presented at the last Council meeting informally before calling the public hearing. He stated staff changed “Student Rentals” to “Unrelated Persons”, removed the 3/4 mile rule from WCU requirement and removed five unrelated persons per dwelling and amended to allow only three unrelated persons per dwelling. Mr. Baker asked the Council if they had any questions for staff or any further discussion of the proposed amendment.

Jim Lewis stated it is vital for the Council to make this change, and many were unaware of the 3/4 mile rule from WCU. However, he believes the proper number is not three unrelated persons but two unrelated persons per dwelling. He asked the Council to consider two unrelated persons as it would align with Cullowhee’s neighbor Forest Hills regulations. He believes three unrelated people does not define a “family” based on their common sense. Typically, the perception of a “family” is two individuals that have chosen to live together (possibly married), or others that are dependents that are related to both or one of the individuals. He believes that three unrelated persons are more tailored to student rentals and believes two unrelated persons is a more logical number.

Chairman Baker stated the Council had an in-depth conversation at their previous meeting, and believes three unrelated persons per dwelling is a good compromise as most of the other municipalities in North Carolina (even college towns) the average number was three unrelated

persons. In addition, based on the public comments it appears the community is comfortable with reducing the number to three unrelated persons per dwelling.

Jack Debnam made a motion to approve the text amendment to three unrelated persons per dwelling, and that it is consistent with the Jackson County Comprehensive Plan. David Claxton seconded the motion and the motion carried unanimously.

Informal Discussion

Jim Lewis stated if the text amendment goes through to adoption by the Board of Commissioners, there is bound to be exceptions of unusual circumstances if three unrelated persons is fair. He stated the Council had discussed fostering, and inquired if there a mechanism in the system that allows those special cases to go to the Council for review and approval.

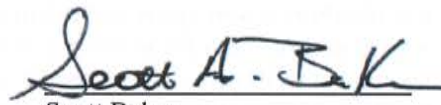
Mike Poston stated staff would notify those that are in violation if there is more than three unrelated persons per dwelling. In addition, staff would review how most restrictions handle fostering as they are considered children and not unrelated. If a property owner, or those given the notice of violation can appeal staff's determination and would be presented to the Council. The Council would then make a decision to determine if staff interpreted the zoning regulation in the correct manner. Mr. Poston stated the appeal of staff's determination would be a Quasi-Judicial setting with evidence presented for the Council to make a decision.

Adjournment

With no further business, Chairman Baker adjourned the meeting at 6:26 p.m.

Respectfully Submitted,


Allison Kelley
Administrative Assistant- Planning


Scott Baker
Planning Council Chair