

# Cullowhee Planning Council

## Minutes

February 3rd, 2020

6:00 p.m.

Conference Room 101A, Cordelia Camp Building

Western Carolina University

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

Jack Debnam made a motion to approve the agenda as written. Joel Setzer seconded the motion and it passed unanimously.

### Approval of Minutes

Jack Debnam made a motion to approve the minutes from January 6<sup>th</sup> and 28<sup>th</sup>. Joel Setzer seconded the motion and it passed unanimously.

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

- ❖ Joseph Pechmann (Oak Forest resident): Mr. Pechmann stated his understanding is that a single family household is defined as no more than three unrelated people everywhere in Jackson County except within ¾ mile from WCU. The only other exception is in the Village of Forest Hills with the limit of two unrelated people. Single family neighborhoods near WCU like Oak Forest should be treated the same way and given the same protections by zoning as other neighborhoods. He stated the ¾ mile radius around WCU nearly includes all of the Cullowhee Community Planning Area that is designated as single family residential and would like to ensure the area remains single family.

Mr. Pechmann raised concerns that was addressed at the previous Council meeting that the developer of "Elevate" on Lyle Wilson Road might of made plans under the assumption that up to five unrelated people could live in each of the proposed housing units. He stated the developer has expressed his intention is to build family housing and to sell each of his units to individual families. Families, as typically defined and understood, almost never consist of five unrelated people. Therefore, the developer should have no object to the proposed change of reducing the number of unrelated people per dwelling.

In addition, the Council discussed at the last meeting a hypothetical scenario that an individual could have bought a house near WCU with the intention of living there along with adding four housemates to help pay the mortgage and share the cost of utilities. He stated he could not imagine a resident homeowner that would have that many housemates unless a parent

was buying the house for their children and roommates to reside in while they attended WCU. This type of situation should be avoided in the single family neighborhoods. 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. A neighborhood that becomes dominated by student rentals becomes undesirable for single families, and housing prices drop accordingly.

Please give neighbors of WCU the same protection for the character and quality of our neighborhoods as others by eliminating this exception to the definition of a family within  $\frac{3}{4}$  mile of WCU.

- ❖ Karen Kandl (Oak Forest resident): Ms. Kandl respectfully requested the Council to limit the number of unrelated individuals living in “single family housing” to no more than three individuals, in the zoned areas in Cullowhee, regardless of where the zoned areas are located. She stated it is disingenuous that “single family housing” should be defined as a large group of unrelated people living in a single dwelling. It should not matter whether or not the dwelling is close to or further from WCU.

Ms. Kandl referred to the previous Council meeting discussion of this topic as follows:

- That it is impossible to enforce limits on the number of unrelated people living in a single dwelling. It is actually not impossible to enforce, and the county has enforced it in the past. It might be difficult to enforce, and it might take neighbors watching out for neighbors to enforce, but it is not impossible. Additionally, just because something is difficult to enforce does not necessarily mean we should allow it even if our better judgement suggests otherwise.
- It will negatively impact foster families. At the last meeting, one board member mentioned that nay family can apply for a special use permit. This is the way that foster families can continue to foster children without being in violation of this suggested change.
- It will severely restrict developers and these restrictions are in place to protect the land, water, and surrounding communities.

The Councils duty is to serve both the existing community and the future. 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 our existing neighborhoods. It would not harm developers if their intent were to actually build single family housing.

- ❖ Gene Norton (Oak Forest resident): Mr. Norton expressed concerns of abusing the word “family,” and that five unrelated people should not be classified as a family. It is defined that any group of people can be called a family according to some rulings in the state if they share financial responsibilities. In a family, parents can charge children rent but in a home but with five unrelated people when one member decides to not pay rent they are removed from the home, which is not a family.
- ❖ Odell Thompson (Oak Forest resident): Mr. Thompson stated a single family in his business relates to the type of building. Single family and duplexes are different from multi-family homes. Multi-Family houses must be sprinkled, and developers are using a loophole by building single family homes to avoid sprinkling multi-family buildings. He stated they are beginning to see high-density single family buildings in these planned unit developments. Mr. Thompson stated that density of that many people is a life safety issue, and building codes are in place for life safety. This is a major concern, as there are a lot of buildings that are 10 feet apart from each other, and one building after another will continue to be added. He expressed the need to determine the best number for unrelated people in a dwelling or if they should look more towards density. An example is the chancellor’s house could hold five unrelated people, and it would not be an issue of concern. However, looking at the small footprint homes “Elevate” are proposing with the current allowance of five unrelated people per dwelling he believes that raises many concerns. He stated both the Council and staff need to consider how to define what is safe, whether that be an apartment building and sprinkling it, or if obtaining a variance for a planned unit development to save money which would create a life safety issue.
- ❖ Wes Stone (Oak Forest/ Forest Hills resident): Mr. Stone stated he was in support to reduce the number of unrelated people in a household. This would be in an effort to maintain the community, and would allow future generations to have family friendly neighborhoods to raise

their families. In addition, Mr. Stone stated he did not consider five unrelated people in a dwelling a family, and believes it is an effort to create more high density housing. He stated there are plenty of options for students around the university, and the ¾ mile radius rule seems arbitrary. He asked the Council to reconsider the definition of a family.

- ❖ Catherine Carter (Oak Forest resident): Ms. Carter stated she was in support of reducing the number of unrelated people in a dwelling unit from five to three or two (in relation to Forest Hills). She encouraged the Council to not be too concerned on restricting the developers as they have plenty of freedom, as North Carolina is one of the friendliest states in regards to the ability to do whatever you wish to with your own property. Ms. Carter asked the Council to remember they are in charge to limit fraternity houses in single family neighborhoods.
- ❖ Hiddy Morgan (Buzzards Roost resident): Ms. Morgan asked the Council to remove Appendix J. Cullowhee Community Planning Area Development Standards Article V (t)(b) Five unrelated persons if home is ¾ mile or less from WCU campus. She asked the Council to consider and amend that the maximum number of unrelated persons in a home shall be three unrelated persons if in a single family housing neighborhood.
- ❖ Pam Buskey (Oak Forest resident): Ms. Buskey stated she was in support of the consideration of reducing the number of unrelated people per dwelling from five to two no more than three people. She stated the Council is the representative of the community, and asked them to consider her request in order to protect the existing neighborhood, and consider the long-term issues of the increased student population. Ms. Buskey stated she was almost in an accident on Highway 107 near the areas where there are student developments with increased automobile traffic. She stated by allowing more people in a household could create future increased automobile accidents.
- ❖ Fredrick Buskey (Oak Forest resident): Mr. Buskey stated he supported the change of five unrelated people per dwelling to three people. In addition, clarifying the language in the ordinance would aid the community to have a better understanding of the definition of single family homes.
- ❖ Greg Adkison (Not in attendance and submitted Public Comment): Mr. Adkison stated he strongly supported a change to the definition of “single family” within ¾ mile of WCU. He would like the definition to state that no more than three unrelated people may live in a single family dwelling.

Mr. Adkison included two photographs taken on February 2, 2020 to show what becomes of a one-time family neighborhood when a house becomes a rental near campus. The photograph shows eight cars and five to six is the norm (five for renters and one for guest). The other photograph shows what happens to the roadside portion of his neighbor’s lawn within a few months of renters moving in the dwelling. He stated several years ago there was similar damage to his roadside that led to the road being several inches higher than the soil with no vegetation to take root due to the regular car abuse. It has caused the road to crack and collapse, and has made the road narrow. He would have shown photos of his roadside, but he dumped mulch this summer but expects it to be gone within six months. Mulch in his neighbor’s roadside has thinned from a foot deep to a few inches deep. He stated the owner of the rental refused to split the cost of a paved “pullout” for the students he was going to donate on his land if the owner would pay half the cost. He sought legal recourse to get compensation for property damage but learned majority of attorneys would not take low-profit cases, and those would charge too much he couldn’t afford the financial cost, time and anxiety. He stated he had to become at peace with renters abusing his property despite his requests. He urged the Council to reduce the number of unrelated people that can legally live in a single family dwelling to no more than three people.

## **New Business**

### **a) Student Rentals Discussion- Unrelated Occupants**

Ms. LaFrienier presented the allowable unrelated persons research in different jurisdictions in North Carolina as follows:

- Village of Forest Hills: two unrelated persons
- Town of Franklin: six unrelated persons
- Town of Highlands: five unrelated persons
- City of Asheville: five unrelated persons

- Town of Boone: sliding scale of how strict the district which includes (two, four, and five unrelated persons)
- Town of Chapel Hill: four unrelated persons
- City of Wilmington: three unrelated persons
- New Hanover County: three unrelated persons
- City of Durham: three unrelated persons
- City of Raleigh: four unrelated persons

In addition, Ms. LaFrienier presented the proposal of text amendment to Unified Development Ordinance Section 9.4.4 of the Cullowhee Community Planning District. In the list of permitted uses, Table 9.9 staff is recommending removing the text “Student rentals” and replace with “Unrelated persons.” The Multi-Family Low Density zoning district staff is recommending removing “U” (Use Permitted, Subject to Additional Standards) and replacing it with “P” (Permitted Use). In the standards section, remove “Student rentals” and replace with “Unrelated persons.” Staff has removed the ¾ mile rule and has included the “maximum number of unrelated persons in home shall be three.”

Heather Baker inquired if Forest Hills was the only jurisdiction that required a special use to allow more than two unrelated persons per dwelling. Ms. LaFrienier confirmed Forest Hills was the only one that required a special use process. Mr. Poston stated some of the jurisdictions and definitions exempt foster care children from being counted as unrelated persons. The original Cullowhee ordinance did not have a definition of “family” but it does define “student rentals.” In the Unified Development Ordinance (UDO) that speaks to family, staff will review and bring forth a definition to the Council and it would apply to the entire county.

Jack Debnam stated he agreed to amend to three unrelated persons, however there are people in single family neighborhoods that would be in violation by amending the ordinance. He asked staff how would this amendment affect those individuals and how staff plans to handle existing households. He inquired would their rights would be terminated with their existing lease. Mr. Poston stated the standard does not establish a non-conforming use; staff would work with the property owners to educate and determine an equitable solution. Mr. Debnam inquired if staff plans to address the amendment in the ordinance when the lease ends or a reasonable time period to be fair. Mr. Poston stated they would not necessarily know where the existing homes that rent to more than three unrelated people are located. Staff would help property owners come into compliance as the court system takes longer. Enforcing the standard staff would need to discuss the issues and rollout. Heather Baker stated staff would need to work with property owners and it would be a longer period than three months to help them come into compliance. In addition, she stated this standard would only apply to the single family zoned districts and within ¾ mile from WCU. Staff would work with owners in a reasonable timeframe to comply with the new standard. Mr. Poston stated they would change the definition of “family” in Article XI, which would be a longer process as it applies to the entire county (zoned, and unzoned). He stated the definition would be in congruent with the change the Council is considering to make.

David Claxton stated in reference to the “Elevate” development they purchased the property with the assumption that five unrelated people could live in dwelling, and those with existing houses that already house five unrelated people, is there any threat of potentially being sued. Ms. Baker stated when the Cullowhee Ordinance was established and set the current limit there were existing homes. For example, in University Heights there is a house on the river with three different units that can have three unrelated people in each unit as the building was constructed prior to the ordinance. Ms. Baker stated enforcement is an issue, however by education and informing the community of the new standard rule should help eliminate those to avoid violation. Staff contacted and met with the developers of “Elevate” even though their permit was not based on this change to inform them of this potential change and they did not seem to have any concerns of reducing the number of unrelated persons per dwelling. Mr. Poston commented on Mr. Thompsons comment of avoiding sprinkling units that it could potentially be a work around. Many of the properties within this area are not done in the density staff typically reviews; it is not an unheard process and practice for a planned unit development to cluster buildings. Clustering buildings allows protecting ridge tops, slopes, floodplains, and opening

space. Staff is not too involved with the state building code as that is a separate department, however the zoning code references developers must comply with building code as that is administrated by the Permitting & Code Enforcement Department. Joel Setzer inquired if the proposed amendment would cause an underlying issue and cause of development sprawl. Mr. Poston stated he did not believe it would be sprawl it would be dictated how the developers plan their public utilities and infrastructure. If developers begin to see people building single family homes outside of the zoned district, they would need a least one acre or three quarters of land for septic system, repair area, and he does not believe it is a big issue of concern. Mr. Poston stated the main concern for the amendment is preserving single family neighborhoods.

Jim Lewis stated Forest Hills has the regulation of two unrelated person in a dwelling and inquired if they have the right to exert their definitions of housing beyond their boarders. Mr. Poston stated they do not have the authority outside of their zoning limits, and could not in the Oak Forest neighborhood. Mr. Lewis stated the number (two or three) and the word "family" and he does not understand how they are considered a family. Ms. Baker stated the number (two or three) is based on unrelated persons, which does not include the word "family."

*Joel Setzer made a motion to call for a Public Hearing for consideration and recommendation of the proposed text amendments. Jim Lewis seconded the motion, and the motion passed in favor with a vote 4-0 and Jack Debnam abstained.*

**b) Cullowhee Small Area Plan**

Ms. LaFrienier stated the Council held the Public Hearing for the Cullowhee Small Area Plan on January 28th, 2020. She stated if there were no further changes or amendments to the plan, staff is asking the Council for a recommendation for the Planning Board to review and consider adoption.

Joel Setzer inquired if there is any language in the plan on density, and if there would be any language that would be impacted by the proposed amendments on unrelated persons. Mr. Poston stated the plan does not speak to density in that context, the plan speaks of density in the Edges District to provide walkability, and parking. In addition, the plan would not need to be amended based on the proposed text amendment on unrelated persons.

David Claxton stated he had some grammatical revisions within the plan and would pass them along to staff.


*Jack Debnam made a motion to recommendation for the Planning Board to review, and adoption of the Cullowhee Small Area Plan with the grammatical revisions. Joel Setzer seconded the motion, and the motion carried unanimously.*

**Adjournment**

With no further business, Chairman Baker adjourned the meeting at 6:59 p.m.

Respectfully Submitted,

  
Allison Kelley  
Administrative Assistant- Planning

  
Scott Baker  
Planning Council Chair