

Subject: Carolina Meadows (Text Amendment Opinion)

From: Nick Robinson <robinson@bradshawrobinson.com>

Date: 6/12/2018 2:34 PM

To: Jason Sullivan <jason.sullivan@chathamnc.org>

CC: Angela Birchett <Angela.Birchett@chathamnc.org>, Mark Ashness <mark@cegrouppinc.com>

Jason and Angela,

I wanted to get back to you in writing regarding whether there is any need to seek a text amendment to the Zoning Ordinance to allow for a building height of up to 75' within the Carolina Meadows Planned Unit Development. The short answer, in my opinion, is "No, a text amendment is not needed to allow a building height of up to 75' within the Carolina Meadows Planned Unit Development."

I have arrived at this opinion by examination of:

1. The original (1982) CUP for Carolina Meadows;
2. The current Zoning Ordinance
3. The Zoning Ordinance that existed at the time of the original approval.

The CUP has been amended variously in 1993, 1997, 2008 and 2014. The 2014, CUP Amendment was reviewed using the Five Findings language from the Pre-2008 and the current Zoning Ordinance (see * explanation below).

The height restriction under the current zoning ordinance is 60'. The Zoning Ordinance, in Section 17.5(C)(1), further provides that:

Planned residential developments are not bound by typical minimum lot sizes, housing development types and dimensional requirements as set forth in the district in which the development is located but are subject to the standards as set forth in this section and any additional conditions and safeguards as may be attached by the Board of Commissioners in authorizing a conditional use permit.

The Zoning Ordinance further provides that a "planned residential development" and a "planned unit development" are one and the same. See Zoning Ordinance, Section 7.2 Definition of "Planned Residential Development."

The original CUP for Carolina Meadows makes it clear in more than one place that Carolina Meadows was approved as a CUP for a "Planned Unit Development." See attached pdf.

Since the dimensional requirements for a PUD/PRD are not bound by the district requirements, the Board can establish different standards in the CUP and may include additional conditions and safeguards. So, rather than try to craft a text amendment for the current ordinance that would allow up to 75' building height for certain CUPs in R-1 districts, I think it will be better to seek Commissioner approval of the 75' building height within the Carolina Meadows CUP and submit rationale to the Board about why, in this case, the allowance is acceptable (i.e., building distance from exterior property exceeds ~250 feet).

Let me know if you agree with this analysis. We can always run a text amendment concurrently with the CUP amendment application but I think it may confuse matters and could possibly create some unintended consequences outside Carolina Meadows.

** Thanks for sending the 1973 Zoning Ordinance. I reviewed it. As I said above, it seems as though the more current Zoning Ordinances have been applied to Carolina Meadows for purposes of determining the applicable Five Findings. So, I am not sure about the continuing relevance of the 1973 Ordinance. It was also very hard to make sense of the timing of the amendments (some before and some after the 1982 CM CUP approval). But one thing I did determine is that there were only very limited number of building height restrictions under the 1973 Ordinance (even as amended) and they applied only to certain categories. For example, Bait and Tackle shops were specifically limited to 35' in height (p. 54/97 of the pdf) and shopping centers were limited to 30' in height (p. 51/97 of the pdf). But I did not see any building height restrictions applicable to a PUD or any other pertinent uses.*

Nick

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— Attachments: _____

1982 CM CUP Excerpts.pdf

1.3 MB

Subject: RE: Carolina Meadows (Text Amendment Opinion)
From: Angela Birchett <angela.birchett@chathamnc.org>
Date: 6/14/2018 12:01 PM
To: Nick Robinson <robinson@bradshawrobinson.com>, Jason Sullivan <jason.sullivan@chathamnc.org>
CC: Mark Ashness <mark@cegroupinc.com>

Nick,

Jason and I have looked this over and agree with your assessment. We are good with proceeding without a text amendment. Thank you for all the background work!

Angela Birchett, CZO
Planner II / Zoning Administrator
Chatham County Planning Department
919-542-8285
angela.birchett@chathamnc.org

Please let us know how we are doing by completing a short survey!

<https://www.surveymonkey.com/r/JDFFZ2B>

From: Nick Robinson [mailto:robinson@bradshawrobinson.com]
Sent: Tuesday, June 12, 2018 2:35 PM
To: Jason Sullivan <jason.sullivan@chathamnc.org>
Cc: Angela Birchett <angela.birchett@chathamnc.org>; Mark Ashness <mark@cegroupinc.com>
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