



Rowan County Planning and Development Department

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MEMORANDUM

TO: Chairman Edds and Rowan County Board of Commissioners
FROM: Shane Stewart, Assistant Planning Director
DATE: August 31, 2016
RE: **FSW 01-16**

BACKGROUND

On March 27, 2000, Planning Staff approved a family subdivision request from property owner George T. Tucker for the division and conveyance of multiple lots to members of his immediate family (see attached plat). Since lot access would be provided through a private road known as Cherish Lane, land divisions could only be approved through the family subdivision provision of the ordinance. The following year, Richard Tucker, lot recipient and son of George T. Tucker, was diagnosed with cancer and cited personal and financial burdens requiring him to sell lot 7. Along with lot 6 owned by his father, the two individuals requested a Family Subdivision Waiver (**FSW 01-01**) allowing the conveyance of two lots to non-family members.

Under a provision from section 22-54 of the Subdivision Ordinance, on April 16, 2001, the Board of Commissioners (BoC) granted the waiver request for the perspective buyer of lot 7 owned by Richard Tucker but, since a buyer was not identified for lot 6, the BoC stated an additional waiver request would be necessary. The BoC also requested “a sworn statement from the buyer stating the buyer understands the conditions of the road” must accompany the request (see enclosed minutes: pages 5-8).

On November 18, 2002, the BoC approved a second waiver request for lots 4 and 5, leaving lot 6 as the last remaining lot subject to the family subdivision limitation. With the exception of lot 7, all other parcels have been developed with residential uses.

REQUEST

Perspective buyers Jason and Katie Seitzinger are currently under contract to purchase lot 6, identified as tax parcel 138-075, contingent upon the waiver approval. Planning staff have explained the history and purpose of the waiver to the Seitzingers and private road status of Cherish Lane, which will not be maintained by Rowan County or NCDOT. In addition to their waiver request letter, the Seitzingers provide a notarized letter acknowledging their

understanding of the private road status for Cherish Lane and the maintenance responsibilities thereof (see attached). As such, the Seitzingers request this waiver to allow the construction of a single-family dwelling.

EVALUATION

As provided in Section 22-54, the BoC may authorize a waiver from the family subdivision requirements when, in its opinion, undue hardship may result from strict compliance. In granting any waiver, the Board of Commissioners shall consider the following:

1. **Nature of the proposed subdivision.** Lot 6 is an existing 6 ½ acre undeveloped parcel established by the March 27, 2000 Tucker plat.
2. **Existing use of the land in the vicinity.** All surrounding land uses are residential. Cherish Lane provides access to eleven (11) residences and two (2) undeveloped lots.
3. **The number of persons to reside or work in the proposed subdivision.** The Seitzingers plan on constructing one (1) single-family dwelling.
4. **Probable effect of the proposed subdivision upon traffic conditions in the vicinity.** The introduction of an additional residence should have minimal impact on Old Beatty Ford Road.

Section 22-54 indicates “The waiver shall be granted only when it has been determined that such waiver shall not be detrimental to the county and the areas surrounding the subdivision”.

STAFF COMMENTS

Staff assumes the BoC would have approved the waiver for lot 6 in 2001 had a buyer been identified at that time and do not have concerns with this request. Relinquishing the family restriction on lot 6 will eliminate the final Tucker lot requiring the waiver. Furthermore, this parcel was established 16 years ago and remained in the ownership of George T. Tucker until his death in 2012.

Since a family subdivision waiver does not require a public hearing or notice to adjoining property owners, staff is of the opinion the BoC could consider this request on the consent agenda. Should the BoC wish to discuss this on the regular agenda, staff will be present at the meeting.