Call to Order and Welcome Susan Hapgood, Vice Chairman

1. Welcome and Introduction of New Staff Members

2. Roll Call of Members Present

3. Election of Officers
   a. According to the Board’s Bylaws, elections must take place at the first meeting of the calendar year, every two years. The Board’s last election was held in 2013.
      I. Election of the Chairman    Assistant Town Manager Hankins
      II. Election of the Vice-Chairman    Chairman of the Board
      III. Appointment of the Secretary

4. Approval of Agenda

5. Review and Consideration of Minutes - None at this time

6. Public Hearing
   a. The applicant, R. Fralin Development, wishes to appeal an administrative ruling of the Rocky Mount Planning & Zoning Administrator and Subdivision Agent. The developer owns and is responsible for developing the Oaks At Rakes Tavern community, a Residential Planned Unit Development within the Town of Rocky Mount. The company wants to deviate from its approved development plan by constructing a 190’ subdivision connector road not in the original development plan adjacent to the property adjacent to or near 660 Old Fort Road, Tax Map & Parcel Number 21002 01600. The Planning & Zoning Administrator/Subdivision Agent determined the new connector is a substantial change from the original plan. The developer is appealing that ruling.
I. Staff Report regarding request
II. Comments from applicant
III. Comments from public

7. Old Business ~ None at this time
8. New Business ~ None at this time
9. Board Concerns & Staff Updates
10. Adjournment
MEMORANDUM

To: Chuck Hutto, Chair, and Members
   Rocky Mount Board of Zoning Appeals

From: Matthew C. Hankins
       Planning & Zoning Administrator

Date: February 3, 2015

Re: Appeal Staff Report, Fralin Homes, Inc.

Members of the Board:

Fralin Homes, the developer of the Oaks at Rakes Tavern, is appealing an administrative determination I made last year.

Fralin is developing 249 homes in an approved subdivision master plan under Residential Planned Unit Development zoning and regulation, as provided by the Zoning Ordinance of the Town of Rocky Mount. The first section of 30 lots has been subdivided; the company has submitted for review a second subdivision of 10 lots at the current end of Old Fort Road.

In October of last year, the developer’s engineer asked if the Town would consider allowing the installation of a temporary road to allow for the development of the lots directly uphill from Section 1. The affected area is at the current end of Old Fort Road; the “temporary” road would make a right turn at the current cul-de-sac and extend uphill to allow development of other sections of the Oaks at Rakes Tavern RPUD.

After consideration, I determined that adding another street, even if temporarily, would be counter to the approved master plan and would require review by the Planning Commission and Town Council.

Fralin Homes wishes to dispute that determination, countering that the addition of a road is not a significant deviation from the master plan and should be approved administratively.

I used the following considerations in determining my ruling.

1. Article 23-13 of the Zoning Ordinance governs revisions to the final development plan. Article 23-13-1 (2) requires that any “substantial change in circulation or access” is subject to the requirement of Article 5, the General...
Provisions section of the ordinance, which governs the zoning, rezoning and conditional rezoning of this type of development.

2. The proposed temporary road runs through the easement designated for the Pigg River Heritage Trail, which the developer is responsible for building in this section. Article 23-13-1 (5) requires an Article 5 review when the developer proposes “reduction in the approved open space, landscaping or buffering.” The trail is a part of the approved, required open space for the project.

3. Temporary roads have a tendency to become permanent. No timetable is set for the completion of this section, the next road segments or the overall development of the RPUD. No expiration or removal date has been offered for this “temporary” segment by the developer. Contrary to Article 23-11-2 (10) of the zoning ordinance, the developer has not submitted a “development schedule and/or precedence order indicating when construction of the RPUD or stages of the RPUD can be expected to begin and be completed.”

4. Should the temporary road become permanent, it would reduce the amount of land previously dedicated as green space; however, the requirement to complete the trail under the green space rules of RPUD zoning would still exist. Relocating the trail to meet those requirements would result in the loss of buildable lots in this segment, which would damage the town by preventing it from recouping its full infrastructure investment. Loss of those lots would represent a loss of the developer’s $2,805 per lot connection fee, customer usage fees from those lots and the taxation of the lots and homes.

5. The Town Planning Office had a reasonable expectation that lots in this RPUD would develop largely in the order of the numbering of the lots. Again, contrary to Article 23-11-2 (10) of the zoning ordinance, the developer has not submitted a “development schedule and/or precedence order indicating when construction of the RPUD or stages of the RPUD can be expected to begin and be completed.”

6. The developer appears to be working to develop its “easier” lots first, which may create conflict with the adjoining property owners. I believe that owners in the first phase had a reasonable expectation that the lots uphill from the first section would develop in later years.

7. A favorable decision for Fralin Homes would remove a significant oversight responsibility and public hearing opportunities for this development. Planning Commission and Town Council are tasked with making determinations regarding large developments in order to assure the orderly development contemplated by your zoning ordinance; those bodies should be given the opportunity for review when significant changes arise.

8. The Subdivision Ordinance Section 8-3C requires the dedication of streets. If this street is temporary, it cannot be dedicated. Therefore, the Town cannot and would not take it over for maintenance purposes, cannot provide services using this street and cannot receive maintenance reimbursement from the Commonwealth. The Town last month agreed to take maintenance of Old Fort Road to the end of the cul-de-sac; it could not extend past the current cul-de-sac if it were an undedicated street.

9. The Subdivision Ordinance Section 9f1 requires: “The arrangement of streets in new subdivisions shall make provision for the continuation of existing streets in adjoining areas where streets already exist. Major, collector and local streets shall be respectively extended as such. The street arrangement must be such
as to cause no unnecessary hardship to owners of adjoining property when the subdividers plat their land and seek to provide for convenient vehicle access to it.” I do not consider this request to meet that orderly street development in harmony with the approved development plan.

In light of these considerations, staff strongly recommends that the Board of Zoning Appeals deny the appeal of Fralin Homes, Inc., in this matter and uphold the determination of the Planning & Zoning Administrator as exercised under Article 5-8-1 of the Zoning ordinance of the Town of Rocky Mount.
1/15/2015

Attn: C. James Ervin
Town of Rocky Mount – Town Manager
345 Donald Avenue
Rocky Mount, VA 24151


Hand delivered with $350.00 check by Paul Hassell on 1-16-2015

Dear Mr. Ervin,

We are in receipt of your letter responding to our request dated 10-15-2014. As you know, we would like to establish 190 linear feet of road to connect the Old Fort Road Extension (within the subdivision) to a future proffered road (within our subdivision). We believe this is a minor amendment to the previously approved Master Plan at The Oaks at Rakes Tavern; and therefore it is within substantial conformance.

We believe there to be a reasonable margin for minor modification since our request is consistent with and does not materially alter the character of the approved development including the uses, layout and relationship to adjacent properties depicted on the approved Master Plan.

We plan to ask the Board of Zoning Appeals for the Town of Rocky Mount to consider the following:

- We are not adding any additional lots or density.
- The addition of this connection does not directly contradict any of the approved proffered conditions.
- The addition of this connection would actually be beneficial from an Emergency Services standpoint and overall interconnectivity within the subdivision.
- The greenspace that would be lost with this connection could be easily made up elsewhere in the subdivision by adding it to some other greenspace areas.
- This is a minor change that is being driven by overall site topography and site conditions that are typically not fully designed to during the rezoning process.
- There is no overall detriment to the neighborhood, community or town by allowing this.

Given the above, we therefore respectfully request to be placed on the February 5th, 2015 agenda of the Board of Zoning Appeals.
Please find enclosed a check in the amount of $350.00. If there are any questions or concerns with our request, please do not hesitate to let me know. As, always, we appreciate your attention to this matter and look forward to a continued positive relationship with the Town.

Sincerely,

[Signature]

Paul Hassell
Chief Operating Officer
Fralin Real Estate Corporation
2404 Electric Road, Suite B
Roanoke, VA 24018

Cc: Stacey Sink, Town Clerk, Rocky Mount, Virginia