

CHATHAM COUNTY PLANNING BOARD  
MINUTES  
September 1, 2009

The Chatham County Planning Board met in regular session on the above date in the auditorium of the Cooperative Extension Building in Pittsboro, North Carolina. The members present were as follows:

Present:

Jim Hinkley, Chair  
B.J. Copeland  
James Elza  
Karl Ernst  
Barbara Ford  
Timothy Keim  
Susan Levy  
Delcenia Turner

Absent

Warren Glick, Vice-Chair  
Judy Harrelson

Planning Division:

Jason Sullivan, Assistant Planning Director  
Benjamin Howell, Planner  
Angela Birchett, Zoning Administrator  
Kay Everage, Clerk to the Board

Other

Tom Glendinning  
Parliamentarian to the Board

Commissioner Sally Kost  
Liaison to the Board

Jim Willis, Soil, Erosion & Sedimentation  
Control Inspector

- I. CALL TO ORDER: Chair Hinkley called the meeting to order at 6:30 p.m.  
Board Quorum:  
The clerk stated that a quorum was present to begin the meeting; and that members Judy Harrelson and Warren Glick had notified staff that they would not be attending tonight's meeting.
- II. APPROVAL OF AGENDA: Ms. Ford made a motion; seconded by Ms. Levy to approve the Agenda as submitted. There was no discussion and the motion passed unanimously.
- III. CONSENT AGENDA:
  - A. Minutes: Consideration of a request for approval of the August 4, 2009 Planning Board minutes.  
Motion to revise minutes:  
Mr. Ernst made a motion; seconded by Ms. Ford, to put the Agenda on the floor. Discussion followed: Mr. Ernst noted the following revision to the minutes as noted below in strikeout, bold, and underlined:
    - Page 73 - Paragraph that states, "Mr. Ernst stated that the question, "who's responsibility is it, has been asked and responded to time and time again in the same way it will be responded to tonight; that it is apparently not the responsibility of the Planning Board ~~staff~~";

The motion to revise the minutes as noted above passed unanimously.

Motion to accept the Consent Agenda:

Mr. Copeland made a motion; seconded by Mr. Keim to accept the Consent Agenda with the revision to the minutes as noted above. There was no further discussion and the motion passed unanimously.

End Consent Agenda

IV. PUBLIC INPUT SESSION: Fifteen-minute time of public input for issues **not on agenda**. Speakers limited to three minutes each.

**Bill Sommers**, 1067 Fearrington Post, Pittsboro, N.C., spoke regarding his concern of recent State Senate Bill 831 [aka the Permit Extension Act of 2009] that extends the current status of real estate developers in any process in which they are involved, to January 1, 2011. He stated that this relief Act is applicable to any action taken by the Planning Board regarding developments as defined in Section 3, Item 2 of said Act; that approvals would have no deadline and would exist as approved until January 1, 2011; that due to economic situations it is doubtful that in 2010 the economy would rise to a point where a similar requirement would not be asked for, i.e., a continuous hiatus of what goes on in terms of approvals and the meeting of debate; that under those circumstances the Planning Board, and/or with the Board of Commissioners, a moratorium should be established on the hearing and/or approval of any of those developments as defined in this Law, Section 3, Item 2; and that local governments involved should stop until such time the Law either expires or is extended again.

Board discussed the above concerns but noted that the Planning Board has little recourse with the State Law; and that a moratorium is a local situation and would also affect new subdivisions.

Mr. Sullivan stated that Dave Owens with the North Carolina School of Government recently wrote an article regarding Senate Bill 831; and that he would E-mail Board members a copy of this article. It was the consensus of the Board that members review the article and revisit the issue at a later time.

V. EROSION MATTERS: Report on erosion matters at Chatham Downs, and observations of other various developments and subdivisions: any success from conversations with owners - Jim Willis - Continued from 8-4-09 Planning Board meeting.

Jim Willis, Chatham County Soil Erosion & Sedimentation Control Inspector, stated that since last month's Planning Board meeting he met with Lisa Lewis (Lat Purser & Associates, Inc.) and Brian Carpenter (BloomsBerry Landscaping) at the Chatham Downs site; that he reviewed photos taken by Peter Theye during his site inspection (Note: Planning Board members saw these photos during last month's meeting.); that a few small new problems were identified (Planning staff, Planning Board, Fred Royal and Cynthia Van Der Wiele were copied.) that following the site visit he sent an E-mail to Ms. Lewis and Mr. Carpenter identifying recommendations for soil erosion and

sedimentation control problems but has not received a response; and that he would keep the Board up-to-date on this issue.

Board members discussed timing and lack of response from the State (as reported by Peter Theye during last month's meeting). It was the consensus of the majority of the Board to monitor the progress of this issue.

## VI. NEW BUSINESS:

### A. Interim Planning Director Staff Report

#### *1. US 15-501 Sidewalk Information Workshop at Dockside Restaurant – August 5*

Mr. Sullivan stated that Ben Howell has been this project's lead person in the Planning Division; that Mr. Howell has been working with NCDOT consultants, various staff personnel and departments at the county level; that the sidewalk plans were submitted to NCDOT and approved at the division level and forwarded to the State Raleigh office for construction authorization; that once this authorization is received the project would be put out for bids; and that bid contracts are to be selected by January 1, 2010.

Mr. Sullivan explained that plans are to run a sidewalk along one side of US Highway 15-501 beginning at Cole Park Plaza running north (on east side of road) and stop just short of the Orange County Line at the Lee Moore Oil property. He noted that further sidewalk extension to the Orange County Line would be part of the subdivision process for Lee Moore Oil; and that some landscaping would be included.

Mr. Howell stated that \$245,255.00 in stimulus money was received for the project; that he recently spoke with NCDOT representatives regarding cross walks for pedestrian signage for crossing US Highway 15-501 intersections; that he was informed that this is considered outside the scope of this project and could not be added in; that once the sidewalk is in place and being utilized the cross walks for pedestrian signage is a good possibility; and that the sidewalk would be 5 feet wide.

#### *2. Chatham/Cary Planning Meeting – August 10*

Mr. Sullivan stated that this meeting was to allow the Board of Commissioners to hear comments and concerns from citizens of the joint planning area regarding what they would like to see happen in this particular area and to come up with a joint plan acceptable to both jurisdictions; that six (6) questions were introduced during the meeting and a breakout session was held for citizens to provide input regarding the questions; that presentations were given by Commissioners Lucier and Kost at the beginning of the meeting; that approximately 200 people attended the meeting and approximately 2,000 notices were mailed to area residences informing them of the meeting; that comments are still being received and are being compiled by Planning staff; that this data would be submitted to Board members upon completion; that since this meeting a joint subcommittee of the elected Boards met and came to a consensus on a joint plan to recommend to the full Boards of both jurisdictions; and that this plan is to be presented at their September 17 meeting.

3. *Joint BOC/Planning Board Major Corridor Workshop at CCCC in Pittsboro: time and location of next session – August 11*

Chair Hinkley stated that a follow-up meeting of the August 11 corridor workshop is scheduled for tomorrow - September 2 at 6:00 p.m. at Central Carolina Community College (CCCC), multi-purpose room.

Member Jim Elza distributed copies of his concerns regarding the proposed ordinance and addressed the various issues noted below:

Corridor Overlay Issues:

- Overlapping versions MCTF, Plan Board, Appearance Commission, and Zoning Ordinance need to be reconciled. Recommend one standard for parking, planting, signs, lighting, etc.
- Tabular standards for Site Plans, Subdivisions, are needed.
- Many of the waivers, exceptions, and exemptions should be noted and covered by Site Plan approval. Not sure Conditional Use is needed in this case.
- Buffer widths are large in the MCTF version, not sure what the buffer widths in the scenic corridor mean if agriculture and SFR are exempt.
- NCDOT controls access, and it is uncertain they can refuse a property owner an access in order to implement nodal access standards.
- Nonconforming treatment of uses, buildings, signs, buffers, parking lots etc. need to be addressed up front.
- Allowed uses in a buffer need better definition (i.e., septic, well, bike path etc.).
- Duplicative language should be eliminated, and standards should be tabularized where possible.

Some specifics discussed by the Board were:

- additional work to be done [excessive time period not necessary]
- establish a universal Metric [or table] – have one person prepare along with text and submit to a designated committee for review
- establish a “super subcommittee” to look into these matters [and others] and report back to Board
- status of various committees, i.e., active or non-active
- use guidelines (or existing ordinances) for some proposals
- two versions of the document currently being reviewed, i.e. need to simplify as one – that can be followed
- address Mr. Elza’s concerns at tomorrow night’s follow-up meeting and finish discussion – then decide next step.

Commissioner Sally Kost stated that the Major Corridor Task Force still exists; that those appointments are effective until January 2010; that timing has been an issue regarding the major corridor matter; that the Planning Board worked on this issue last year from January through June; that after the Planning Board reviewed the proposed corridor plan there were changes to the Zoning Ordinance and Subdivision Regulations; that it has been mentioned if a corridor overlay is actually needed because things could possibly be accomplished in our existing zoning ordinance; that a plan is to consider what is wanted first and to then go back to ensure consistencies; that she recommends that we work through issues at the tomorrow night's follow-up meeting and make a decision afterwards; that it's agreeable to not rush the issue; and that adding to the complication is how to deal with non-conforming uses.

Discussion followed regarding:

- 1) staff function in these procedures
  - 2) making adjustments accordingly, and
  - 3) being sensitive to those who have worked so hard on this issue.
4. *Public Hearing / actions of the Board of Commissioners – August 17, 2009*
- Countywide Lighting Ordinance  
Mr. Sullivan stated that this item is scheduled for discussion later tonight, i.e., Section VII. A.
  - Anthony Bright rezoning request R1 to LI  
Mr. Sullivan stated that a public hearing was held regarding this request; that this was a continuation of the corridor business rezoning; that the Board of Commissioners did not take action on this proposal; and that the Commissioners tabled taking action until sometime in the future.
  - Briar Chapel, Phase 4, Section 3  
Mr. Sullivan stated that this final plat was approved (on consent agenda).
  - Legend Oaks, Phase III  
Mr. Sullivan stated that preliminary plat and phasing schedule requests were approved; that the permit extension request was denied; but that the "Permit Extension Act" (not passed at the time of application) now provides for this extension.
5. Local Government Green Growth Toolbox workshop: NC Wildlife Resources Commission

Chair Hinkley stated that Cynthia Van Der Wiele, Sustainable Communities Development Director, was scheduled to address this issue but was not present tonight.

Mr. Sullivan stated Jacquelyn Wallace with the NC Wildlife Resources Commission has been working on a project to create a growth management toolbox, i.e., "Green Growth Toolbox"; that she developed a day long course to introduce citizen boards and staff from different areas about available smart growth tools; that some of our Planning staff

recently spent a day with Ms. Wallace; that the first part of the day was book review with the afternoon being spent in the field on Corps of Engineers property (getting a reality of how things work in the field); that Ms. Wallace has offered this day long workshop for interested Board members; and that Ms. Van Der Wiele has received feedback from some Planning Board members interested in having Ms. Wallace give a thirty minute presentation. Mr. Sullivan noted that Board members may want to have Ms. Wallace present a series of discussions; that one issue from a timing standpoint is that we are in the middle of so many different things (on staff level as well as advisory board level); and that this might not be the best time to have a day-long workshop. Chair Hinkley stated that his last communication from Ms. Wallace was this morning; and that she could schedule two (2) one-half day sessions to accommodate the Board.

#### 6. Minor Subdivisions

Mr. Sullivan stated that Commissioner Kost has requested that staff begin updating the Planning Board on minor subdivision approvals; that Lynn Richardson, Subdivision Administrator, spends a great deal of time working with minor subdivisions (5 residential lots or less); that spread sheets are kept annually and updated monthly; that an up-to-date spread sheet was provided Board members earlier tonight; and that future Planning Board packets would include continuous updates.

### VII. ZONING AND ORDINANCE AMENDMENTS:

A. Request by the Chatham County Board of Commissioners to consider adoption of the Chatham County Lighting Ordinance. The purpose of the ordinance is to establish outdoor lighting standards for residential and non-residential uses, establish lighting design review and enforcement procedures, and establish an amortization schedule for vehicular canopies in the unzoned areas of the county.

Chair Hinkley stated that this issue was presented at the August 17 public hearing; that the Planning Board is now requested to make a recommendation to the Board of Commissioners; and that a copy of the proposed ordinance was included in tonight's agenda packet.

Mr. Sullivan stated that three (3) people spoke at the recent public hearing (1 in favor, 1 opposed, and 1 speaking with regards to her property located in the zoned portion of the county currently under lighting standards); that the draft ordinance standards replicate the process and regulations in our current Zoning Ordinance; that because the draft ordinance applies to unzoned areas of the Chatham County, the Commissioners are interested in applying lighting standards; that this is being pursued under the General Police Power Statutes instead of our zoning authority; that the county attorney has reviewed and approved the draft ordinance; that the Board may want to discuss setting an ordinance effective date other than the adoption date (as was done with the lighting section approval for the Zoning Ordinance); that this additional time allows citizens to become aware that a new ordinance is in effect; that one part of the Lighting Ordinance entails that staff take routine light readings on vehicular canopies; that those not in compliance would have five (5) years to come into compliance; that our Zoning Enforcement Officer, Tony Wilson, has already identified eleven canopies; that staff would need to update utility providers on new the standards; that cut-off classifications

would be changing at some point in the future; and at that time proposed revisions for those new classifications would be presented to the Board of Commissioners.

*Motion to recommend ordinance adoption - passed*

Following discussion, Mr. Elza made a motion; seconded by Mr. Copeland to recommend adoption of the Lighting Ordinance as submitted with an **effective date of January 1, 2010**. Discussion followed. Mr. Ernst asked Mr. Sullivan to explain the linkage between Progress Energy and this Lighting Ordinance. Mr. Sullivan stated that Progress Energy staff member, Bob Henderson, works with local governments; that Mr. Henderson assisted Chatham County with the drafting of this ordinance to insure its function from an industry standpoint, i.e., technical support. Ms. Birchett stated that Mr. Henderson and his staff have a business relationship with the Duke Power staff; and that these two entities have discussed various conformities that have been beneficial relative to this ordinance. The motion passed 7-1 with all Board members present voting in favor of the motion; except Mr. Ernst who voted against. Mr. Ernst noted that the non-conforming issue remains a concern.

*Items for September 21, 2009 Public Hearing - Information material to be distributed at meeting:*

- B. A request by Brian Sawyer for a conditional use rezoning on Parcel 82735, located at 525 Old Farrington Rd., Williams Township, from R-1 Residential to Conditional Use Neighborhood Business (CU-NB), on approximately 1.16 acres.
- C. A request by Brian Sawyer for a conditional use permit on Parcel 82735, located at 525 Farrington Rd., Williams Township, for multiple uses as stated in the application and as allowed in the Table of Permitted Uses for the Neighborhood Business District.

Ms. Birchett stated that the above requests (items B. and C.) are scheduled for joint public hearing September 21; that this issue involves a third parcel (vacant lot) in a succession of three on Old Farrington Road; and that the Board was furnished the application material earlier tonight.

VIII. OLD BUSINESS:

*1. Timing of issues sent Commissioners*

Chair Hinkley stated that last week the County Commissioners heard the Bright rezoning request; and that to his knowledge the Commissioners had not received the Planning Board's information and/or recommendation.

Commissioner Kost stated that staff agenda abstract **did** include the Planning Board recommendation; that the Commissioners did not take action on the Bright rezoning because they wanted to have the discussion about economic nodes (along NC 87 south /Hwy. 15-501south; and that Planning Board recommendation is always discussed during agenda review along with any pertinent information in relation to a particular request and/or issue.

2. *Urban Edge Agriculture Parks*

Chair Hinkley stated that during last month's Planning Board meeting, Debbie Roos with the Chatham County Agriculture Extension Agent, gave some helpful comments regarding agricultural parks; that Board members may want to explore this issue; that agricultural parks would be very applicable to Chatham County; and that Board members might consider a subcommittee from this Board to meet with Ms. Roos to assist with the preparation of various materials for recommendation to the County Commissioners.

Commissioner Kost stated that the topics, "agriculture parks" and "Farmland Preservation Study" are so harmonious that we may want to combine the two for discussion. Mr. Howell stated that originally the "Farmland Preservation Study" was to be finished by July of this year; that due to illness we are still 2 to 3 months out; that we just received the first full drafts of both major portions of the "Farmland Preservation Plan"; that a proposed timeline is for a draft plan to the Commissioners this October and to aim for November/December 2009 for adoption dates; and that the plan has two different portions, i.e., economic development marketing, and land use.

Board discussion followed. Mr. Copeland suggested that a small group of Planning Board members work more closely with Cynthia Van Der Wiele and Debbie Ross to determine how we might include in our existing Subdivision Regulations the provision or an opportunity for a central community farm entity. Chair Hinkley suggested that Ms. Van Der Wiele and/or Ms. Ross might possibly hold a work session for the Planning Board. Tom Glendinning, Parliamentarian to the Board, noted that legally (i.e., State and/or National Legislation) the term "conservation easement" cannot be used for agriculture and/or silvaculture; and that the terms "agriculture easement" or "silvaculture easement" should be used.

IX. OTHER:

A. Planning Board Members Items

1. *Board members discussion on the role of the Planning Board*

Discussion of this item was deferred since Mr. Glick was not present.

X. ADJOURNMENT: There being no further business, Ms. Ford made a motion; seconded by Ms. Turner, to adjourn the meeting. There was no discussion and the motion for adjournment was unanimous. The meeting adjourned at 8:45 P.M.

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James R. Hinkley, AICP, CZO, Chair

\_\_\_\_\_  
Date

Attest:

\_\_\_\_\_  
Kay Everage, Clerk to the Board

\_\_\_\_\_  
Date