

CHATHAM COUNTY PLANNING BOARD
MINUTES
March 2, 2010

The Chatham County Planning Board met in regular session on the above date in the classroom of the Henry H. Dunlap Building in Pittsboro, North Carolina. Members present were as follows:

Present:

James Elza, Chair
B.J. Copeland, Vice - Chair
Karl Ernst
Barbara Ford
Warren Glick
Judy Harrelson
Jim Hinkley
Timothy Keim
Susan Levy
Bill Sommers
Delcencia Turner

Absent

Planning Division:

Benjamin Howell, Planner
Angela Birchett, Zoning Administrator
Lynn Richardson, Subdivision Administrator
Kay Everage, Clerk to the Board

Others Present

Tom Glendinning
Parliamentarian to the Board

- I. CALL TO ORDER: Chairman Elza called the meeting to order at 6:30 p.m.
- II. DETERMINATION OF QUORUM: The clerk stated that a quorum was present to begin the meeting.
- III. APPOINTMENT OF PARLEMENTARIAN: Chairman Elza stated that Tom Glendinning has agreed to continue serving as Planning Board Parliamentarian; that it is his desire to appoint Mr. Glendinning to serve as parliamentarian during his term as Chair; and that he appreciates Mr. Glendinning's willingness to serve the Board.
- IV. APPROVAL OF AGENDA: Mr. Copeland made a motion; seconded by Ms. Harrelson to approve the agenda as submitted. There was no discussion and the motion passed unanimously.

Member Susan Levy arrived at this time.

V. APPROVAL OF CONSENT AGENDA:

- A. Minutes: Consideration of a request for approval of the February 2, 2010 Planning Board minutes.

Mr. Hinkley stated that he would consult with the clerk after tonight's meeting regarding a couple of typos in the February 2 minutes. Mr. Copeland made a motion; seconded by Ms. Ford to approve tonight's consent agenda with revisions noted above. There was no discussion and the motion passed 9-0-1 with all Board members present voting in favor of the motion, except Mr. Elza who abstained since he was not present at last month's meeting.

Member Bill Sommers arrived at this time.

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

There were no requests to speak at this time.

VII. SUBDIVISION PUBLIC HEARING:

A. Request by Dorothy Heard for First Plat approval of "Heard Cell Tower", consisting of one (1) non-residential, 40,000 square foot subdivision lot containing an existing cell tower, located off Hwy 64 W, Hickory Mountain Township.

Chair Elza gave the following summary regarding this subdivision public hearing process:

- public hearing begins
- staff report is given
- proponents speak
- opponents speak
- Planning Board questions / answers
- rebuttal – if any
- closure of public hearing
- motion, and
- discussion.

He then opened the public hearing.

Ms. Richardson reviewed the agenda notes for this request. She stated that staff thinks that the application meets requirements of the Subdivision Regulations for first plat review and approval; and that it is recommended that staff be allowed to review and approve the construction plan and final plat so that the applicant does not have to come back before the Planning Board for additional review.

Board discussion followed regarding, 1.) purpose of request, 2.) existing cell tower and 3.) zoning. Ms. Richardson stated that Chatham County has a communication tower application/approval process; that the existing cell tower site went through the necessary process for the location of the tower; that the cell tower lot was never split out of the parent 43 acre tract; and that now the applicant is requesting to subdivide the cell tower lot from the remaining land.

Wayne Barr (Ms. Heard's son-in-law), P.O. Box 880, Shelby, NC was present representing the applicant. Mr. Barr explained the reasoning for this request and addressed some specifics of Board members discussed above. He stated that his father-in-law recently passed away (December 2009); that the Heard family has been going through this subdivision First Plat process for a year; that the one acre lot would be appropriately zoned to Light Industrial; that the family wishes to split out the cell tower tract of 40,000 sq. ft. and pay the appropriate tax deemed necessary for that one particular lot; that the remaining 42 acres would stay as farm land; and that revenue from the cell tower lot would assist with Ms. Heard's future living arrangements.

Board discussion followed regarding:

- minimum lot size required – 40,000 sq. ft.
- location of this proposed lot within the entire tract – corner tract with separate access
- current zoning - (R-1)
- required zoning for cell tower - (L-Ind.)
- public hearing already held on this property – corridor zoning
- existing tower is a free standing tower
- It is typical to subdivision and rezone for a cell tower
- same process necessary if cell tower tract is sold
- entire property currently in a family trust
- tower provider currently paying rent
- many cell tower properties throughout the county - under conditional use

No one spoke in opposition of the request.

Chair Elza declared the public hearing closed.

Motion

Ms. Ford made a motion; seconded by Mr. Ernst, to approve the request as recommended by staff. There was no further discussion and the motion passed unanimously.

VIII. ZONING AND ORDINANCE AMENDMENTS:

Item for 3-15-10 Public Hearing

A. Public Hearing request by Lauren Fitts dba Carolina Waterscapes for a revision to an existing conditional use permit for a landscape design, food and beverage retail, and general retail business, located at 781 Mt. Carmel Church Rd., Parcel No. 19430, Williams Township, to include personal service shop specifically for exercise instruction, massage and physical therapy, acupuncture, and Bodywork for physical health.

Ms. Birchett stated that the above request (for a revision to an existing conditional use permit) is scheduled for public hearing March 15, 2010 at 6:00 p.m. in the Superior Courtroom in Pittsboro, NC; and that application materials were distributed to Board members earlier tonight.

IX. NEW BUSINESS:

A. Agri-tourism

Chair Elza stated that some Board members have been approached about doing an Agri-tourism amendment to the Zoning Ordinance; that the Board would be getting this in the future; and that some Board members may want to look at Agri-tourism as an issue. Ben Howell stated that this would be an additional section in the Zoning Ordinance; and that staff would be meeting with Chad Meadows (i.e., assisting a winery business in the Haw River area) next week to discuss proposed wording for the ordinance.

B. Climate Resolution

Chair Elza stated that during next month's Planning Board meeting, the Board could discuss a potential proposed climate resolution referred to the Planning Board by the Environmental Review Board [ERB].

X. STAFF ITEMS:

A. Planning Director Staff Report

Ben Howell submitted the following reports in Jason Sullivan's absence.

1. *Minor Subdivisions Update.*

Mr. Howell noted that three (3) additional minor subdivisions were approved after the spreadsheet (included in tonight's packet) was compiled. Ms. Richardson stated that these subdivisions are occurring throughout various sections of the county; and that these are basically family type subdivisions.

2. *Budget*

Mr. Howell stated that the Planning Department budget is almost complete; that it is to be submitted next week; that it is similar to last year's primarily keeping with a continuation budget; the County Manager's office has directed no new big expenditures due to the economy; that most of our budget is personnel; and that paper copies of the budget would be provided in next month's Planning Board packet.

3. *Land Conservation Development Plan - update*

Mr. Howell stated that he and Mr. Sullivan are working with Cynthia Van Der Wiele; that they are scheduled to present a work session to the Commissioners on March 15 about their proposed frame work on this update; and that money would be budgeted for this (probably from a special project budget).

XI. BOARD MEMBER ITEMS:

A. Internally Illuminated signs – follow-up to citizen’s concern from last month’s Planning Board meeting.

Mr. Copeland stated that this item is on tonight’s agenda for follow up to questions raised during last month’s Planning Board meeting.

Ms. Birchett stated that some concerns were raised regarding whether or not to allow internally illuminated signs; that staff’s interpretation has been that they are not allowed because the ordinance states that, “if something is not expressly permitted it is then considered prohibited”; that the Commissioners are also reviewing this issue; that at the time the Lightning Ordinance was adopted it was thought to be too complex of an issue to include in the ordinance; that earlier tonight she distributed to Board members copies of her E-mail from Robert Henderson, Progress Energy Carolinas; that Mr. Henderson included draft language as an example for permitting internally illuminated signs; that the ability to control the amount of light that an internally illuminated sign provides is a matter of consideration; that Mr. Henderson stated that it is doable to control this type lighting; and that staff would need Board recommendation to do either:

- develop proposed language to allow internally illuminated signs, or
- prohibit these signs.

Ms. Birchett noted that staff received an appeal regarding this type lighting; and that the appeal is scheduled to be heard by the Zoning Board of Adjustment on April 5 at 1:00 p.m.

Motion

Mr. Copeland stated that internally illuminated signs should be allowed but with some controls. Mr. Copeland made a motion; seconded by Ms. Ford to recommend to the Board of Commissioners that this category be reopened. Discussion followed. Mr. Glick recommended that there be some consideration for amortization and that there be consideration of these illuminated signs being removed from the roadways and setback from any roadway a minimum of 500 feet. Ms. Birchett stated that lighting samples would be provided to Board members. Mr. Sommers inquired about cost and difficulties of enforcement. Ms. Birchett addressed these specifics.

Amendment to Motion

Mr. Glick made an amendment to the motion to add digital signs to the internally illuminated signs; seconded by Mr. Keim. There was no further discussion and the amendment to the motion passed unanimously.

Original Motion Including Amendment

The motion with amendment (as stated above) passed unanimously.

B. Rules of Procedure –discussion and action on a change to allow holding election of Planning Board officers in January.

Motion – failed

Mr. Glick stated that during last month’s Planning Board meeting he proposed that future election of Planning Board Chair and Vice-Chair be held at the close of the regular meeting of the Planning Board each year in January (instead of February as currently stated in the “Rules of Procedure”). Mr. Glick made the above proposal in the form of a motion; seconded by Mr. Copeland. Discussion followed. Some specifics discussed were:

- members appointed by new Commissioners – is this sufficient time for acting Board members to get acquainted with the new appointees
- leave as is (in February) but move to beginning of meeting (or Chair can move to beginning of meeting)
- terms have changed from 3 to 4 years
- new Commissioners begin serving in December
- process, i.e., new Commissioners can appoint members to the Planning Board beginning as early as December after being sworn in

The above motion (that future election of Planning Board officers be held at the close of the regular meeting of the Planning Board each year in January instead of February as currently stated in the “Rules of Procedure”) failed with a vote of 1-10 with Mr. Glick voting in favor of the motion; and all other Board members voting against.

Rules of Procedure - unchanged

Chair Elza stated that the Planning Board Rules of Procedure remain the same and that the Chair would place the election of Chair and Vice Chair at the beginning of February meetings.

C. Reports from Board Members

1. Sedimentation Concerns Addressed to the Planning Board

Mr. Copeland stated that during last month’s Planning Board meeting the Board instructed him to write a letter to Mr. Lofrese indicating to him that action had been taken; that a copy of said letter (dated February 26, 2010) was distributed to Board members earlier tonight; that the letter states that, while the Planning Board has no jurisdiction for enforcing land use activities, the information was forwarded to Jim Willis, Soil Erosion and Sedimentation Control Supervisor; that Mr. Willis took immediate action to investigate and continues to work with the land owner to address the situation. (Note: A copy of this letter is filed in the Planning Department.) Mr. Howell added that Mr. Willis is still working with the property owner who continues to work with DENR and DWQ at the State level on the sedimentation issue.

2. Briar Chapel

Mr. Sommers stated that during the last few months a series of Briar Chapel subdivision sections have been before the Planning Board where they were approved and then subsequently approved by the Board of Commissioners; that recently it was found that Briar Chapel has been in violation of its 401/404 original permits as given by DENR and Corp of Engineers; that these violations were identified in August of last year via letters; that Briar Chapel has been given until April 15, 2010 to remedy these violations in conformity to amended requirements made by DENR and Corp of Engineers; that knowing this the Planning Board should have withheld its approval until the violations were corrected as required; that had he known of this situation at the time of Board voting, he would not have voted yes; that he also asks that the Planning Staff give the Planning Board notice on/or about April 15th regarding the progress Briar Chapel has made in complying with the stated requirements of DENR and Corp of Engineers.

Board discussion followed with some specifics noted as follows:

- notification to Planning Board of pending violations
- add discussion of outstanding violations to future staff technical review committee meetings, i.e., Fred Royal, Environmental Resources Division Director
- ask developers if there are violations pending, and
- financial guarantees, choice of a bond, extensions to build improvements.

D. Recognition of Service for Jim Hinkley and Warren Glick

Mr. Sommers expressed the following:

“On behalf of the entire Planning Board, I would like to thank both Jim and Warren for their singular service to the Planning Board and the people of Chatham County. Both were appointed to the Planning Board in February 2007 and since then have been true custodians of the public trust. Jim was chosen to the Board’s Chairman on January 6, 2009, supported by Warren as Vice Chairman, elected on the same date. Both gave of their time as dedicated persons carefully reviewing the many proposals coming before the Board while at the same time providing leadership to the Board as a whole. Our appreciation - and our thanks - for what you two have contributed to planning in Chatham County”.

XII. ADJOURMENT: There being no further business, Mr. Ernst made a motion; seconded by Ms. Harrelson to adjourn the meeting. There was no discussion and the motion passed unanimously. The meeting adjourned at 7:50 p.m.

_____/_____
James Elza, Chair / Date

Attest:

_____/_____
Kay Everage, Clerk to the Board / Date