

**CHATHAM COUNTY PLANNING BOARD
MINUTES
December 7, 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

Absent

Bill Sommers
Delcenia Turner

Planning Division:

Jason Sullivan, Planning Director
Angela Birchett, Zoning Administrator
Ben Howell, Planner

Others Present

Tom Glendinning
Board Parliamentarian

- I. CALL TO ORDER: Chair Elza called the meeting to order at 6:30 p.m.
- II. DETERMINATION OF QUORUM: Mr. Sullivan stated that a quorum was present to begin the meeting. He noted that staff had received notification from Ms. Turner and Mr. Sommers that they would not be attending tonight's meeting.
- III. APPROVAL OF AGENDA: Mr. Ernst made a motion; seconded by Ms. Ford to approve the agenda as submitted. There was no discussion and the motion passed unanimously.
- IV. APPROVAL OF CONSENT AGENDA:
Minutes: Consideration of a request for approval of the November 1, 2010 Planning Board minutes.

Mr. Hinkley made a motion; seconded by Mr. Copeland to approve the consent agenda as submitted. There was no discussion and the motion passed unanimously.
- V. 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.

VI. ZONING AND ORDINANCE AMENDMENTS: *Item from 9-20-10 and 10-18-10 Public Hearings and 11-1-10 Planning Board Meeting:*

Request by HBP Properties, LLC for a revision to the existing conditional use permit on Parcel No. 2407, known as Polk's Village, 10677 US 15-501 N, to add additional uses on the property.

Ms. Birchett gave a recap of staff report reviewed during last month's meeting. She stated that staff recommends denial of the request based on findings 3-5 not being met; but that should the Board's recommendation be in favor of the request, staff has recommended conditions included in the agenda notes.

Leanne Brown, attorney representing the applicant was present. Ms. Brown recognized the following that were also present tonight:

- Jack Smyre, The Design Response (assisting the applicant with planning and design); and
- Brantley Powell, HBP Properties, LLC.

Ms. Brown gave a brief historical review of the project (timeline). She distributed a hand-out titled, "Polks Village – Summary of Proposed Additional Land Uses". (A copy of the hand-out labeled Attachment A is in the applicant's file in the Planning Division.) She reviewed the five (5) findings of fact, giving rationale for approval, i.e., flexibility and long term basis; and she stated that the applicant agrees with all conditions recommended by staff with the exception of condition #2 that states:

2. The additional uses allowed to be added to the original list of uses are: ABC Stores, Appliance Sales & Service, Cabinet Shops (excluding manufacture), Catering Establishments, Dairy Bars and Ice Cream Shops, Specialty Food Store limited to 12,000 square feet maximum and no outside storage or displays, Music Stores, Photographic Studio, camera shops, Post Office internal to primary use structure only (no stand alone facilities), Repair shops for jewelry, shoes, radios, televisions and other small office or household appliances with no outside storage or displays, Secretarial & Job Service Agency, Sporting Good Sales with no outside storage or displays for a total of 12 additional uses.

Ms. Brown cited that the applicant is requesting to add the following uses (as shown in blue and black type on Attachment A noted above.) Note that uses in red type will not be pursued by the applicant.

Blue – Use not accepted by staff and proposed to be dealt with by additional condition of approval, i.e. wastewater impact

- Bake shops & similar food preparation
- Laboratory – dental, medical, optical
- Laundries, Laundromats and dry cleaning establishments

Black – Use not accepted by staff based on duplication of existing/approved land uses, i.e. duplication of existing use

- Bicycle sales & repair
- Hardware, appliances, electrical, and similar items retail sales
- Lawn and garden shops (under roof)
- Medical clinics
- Opticians and optical sales and service
- Paint retail shops
- Veterinary clinics and hospitals with dog runs or equivalent facilities

Board discussion followed. Some specifics addressed were:

Is proposal considered to be regional, community or neighborhood oriented?

Mr. Smyre stated that the proposal is a slight mix between a neighborhood and community; and that it's more of a mixed use campus with approximately 120,000 sq. ft. of planned floor area.

Original conditional use permit (CUP) approved in 2006 – now before the Board to be amended – why not let the CUP expire and go back to re-zoning

Mr. Sullivan explained that the re-zoning would remain in place if the CUP expired.

Overly complicated situation; possibly recommend that applicant come back with a new proposal without conditional attachments; new Planning Board next month with likely a change of philosophy; 2012 - current date of expiration; duplication of permitted uses

Veterinary with dog runs

Mr. Smyre stated that the applicant would accept location restriction for veterinary with dog runs.

Post offices

Mr. Smyre stated that staff has recommended that Post offices only be allowed as a use within a use (or accessory use).

Any major concerns other than medical uses

Ms. Birchett stated that with most proposed uses specific conditions would apply. Ms. Birchett and Mr. Sullivan also pointed out that in order for many of these uses to be added, there would have to be additional conditions and/or restrictions on the use which then becomes a real burden on staff to enforce.

Wastewater condition

Mr. Sullivan stated that staff had questions of how additional uses would be handled. Ms. Birchett stated that wastewater issues came up because originally Polks Village would be on William's Corner sewer that is now different.

Size of medical clinics

Mr. Smyre stated that Williams Corner application listed 120,000 sq. ft. for medical use; and that this application would only be approximately one quarter of this space.

In this arrangement, who is the ultimate beneficiary, i.e., confusion as to owners?

Ms. Birchett stated that Brantley Powell owns the Polk's Village side and Rudd Properties own William's Corner.

Karen Kemerait, attorney, and Luis Rios, Parks Development, LLC were present representing William's Corner. Ms. Kemerait stated that both developments have worked very well together since approximately 2005; that recently it was discovered that there was a disagreement and an issue between the two projects; that the proposal (a change to the conditional use permit) has the potential to create a situation where two projects that were envisioned as "sister developments" and referred to as "complimentary developments" are now going to be competing developments where one project could cancel out the other project; that there are no new NCDOT approvals or information; that any change for the traffic improvements could slow down the progress for William's Corner and also greatly increase cost; and that she requests that the Board support staff recommendations for denial of this request.

Mr. Smyre addressed traffic concerns. Ms. Brown addressed other concerns, i.e., burden of proof. She noted that at the public hearing there was no evidence put forward which suggests that these conditions cannot or have not been met other than the fact that William's Corner would prefer that this particular development not have some uses that it has.

Comment from Mr. Glick

Mr. Glick stated that he was not on the Board in 2005/2006 and is not privileged as to what took place originally; that it appears from all that he has read and heard that much concern and effort was put into these two developments; that had he been on the Board at that time he would have never conceived of one development directly across the road from another; and that at this point he finds no reason to change what was so carefully planned at that time.

Motion to deny - passed

Mr. Hinkley made a motion to deny the proposal in support of the recommendation of the Planning staff. Mr. Keim seconded the motion. Discussion followed regarding the significant change in the project (from one developer to two developers) and the five required findings. The motion for denial passed 6-3 with Hinkley, Keim, Elza, Ford, Glick, and Harrelson voting in favor of the motion; and Copeland, Ernst and Levy voting against.

VII. NEW BUSINESS:

There were no items discussed.

VIII. STAFF ITEMS:

Planning Director Staff Report

1. *Minor Subdivisions Update*

Mr. Sullivan stated that an updated spreadsheet was included in tonight's agenda packet.

2. *Planning Board Appointments*

Mr. Sullivan stated that Planning Board terms currently end December 31, 2010; that it is not clear when the new Board of Commissioner members would appoint new Planning Board members; that currently board members can continue to serve if new appointments are not made prior to the January 2011 Planning Board meeting; and that some appointments could possibly be made at the upcoming December 13th Board of Commissioner's meeting.

IX. BOARD MEMBER ITEMS:

No items were submitted.

X. ADJOURNMENT: There being no further business, Mr. Ernst made a motion; seconded by Mr. Copeland to adjourn tonight's meeting. There was no discussion and the motion passed unanimously. The meeting adjourned at 8:05 P.M.

_____/_____
James Elza, Chair / Date

Attest:

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