



**CHATHAM COUNTY PLANNING BOARD
MINUTES
October 4, 2011**

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

Present:

Karl Ernst, Chair
B.J. Copeland, Vice-Chair
Philip Bienvenue
Kathryn Butler
Philip Canterbury
James Elza
Mike Grigg
Dwayne Howard
Timothy Keim

Absent:

Planning Department:

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

Other:

Tom Glendinning, Parliamentarian

- I. CALL TO ORDER: Chair Ernst 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 (8 Planning Board members present).
- III. ELECTION OF PLANNING BOARD VICE-CHAIR: Chair Ernst opened the nominations for Planning Board Vice-Chair. Nominations were as follows:

B.J. Copeland	nominated	Tim Keim;
Tim Keim	nominated	Philip Bienvenue; and
Mike Grigg	nominated	Philip Canterbury.

Mr. Elza made a motion; seconded by Mr. Howard to close the nominations for Planning Board Vice-Chair. There was no discussion and the motion passed unanimously. Voting was as follows:

<u>Board Member Nominated</u>	<u>Nominated By</u>	<u>Number of Votes Received</u>	<u>Board Members Voting For Nominee</u>
B.J. Copeland	Tim Keim	5	Tim Keim, Karl Ernst, James Elza, Mike Grigg, and B.J. Copeland
Tim Keim	Philip Bienvenue	1	Philip Bienvenue
Mike Grigg	Philip Canterbury	2	Philip Canterbury and Dwayne Howard

B.J. Copeland was elected Planning Board Vice-Chair.

IV. APPROVAL OF AGENDA: See next item (V.)

V. APPROVAL OF CONSENT AGENDA:

Minutes: Consideration of a request for approval of the September 13, 2011 Planning Board minutes.

Items IV. and V. were considered approved as submitted since there were no objections by Board members.

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

No one requested to speak at this time.

VII. ZONING AND ORDINANCE AMENDMENTS:

Items from September 19, 2011 Public Hearing

1. Request by Withers & Ravenel on behalf of Jo Ann Davis, Parcel No. 19645, Williams Township, located at 9157 NC Hwy 751, to rezone the two (2) acre tract from R-1 Residential to CU-B1 Conditional Use Business.

Ms. Birchett reviewed the agenda notes for this rezoning request. Using the large overview map, she pointed out existing structures and explained various landscaping on this parcel and the adjoining 17 acre parcel. Mr. Birchett stated that staff recommends approval of the rezoning request as submitted.

Jennifer Wagner, applicant, was present.

Board members discussed the existing eagles nest on property abutting the proposed site. It was noted that there are no restrictions as to distance requirements from an eagles nest to a development; but that some Federal recommendations have been established.

Chair Ernst noted that no adjacent landowners spoke on this request at the September 19, 2011 public hearing.

Motion to approve

Mr. Elza made a motion; seconded by Mr. Grigg to recommend approval of this request as submitted and as recommended by Planning Department staff. There was no further discussion and the motion passed unanimously (8 members).

2. Request by Withers & Ravenel on behalf of Jo Ann Davis, Parcel No. 19644, Williams Township, located at 9157 NC Hwy 751, for a revision to an existing conditional use permit to add the two (2) acre tract from Parcel No. 19645 to the existing 17.246 acre tract, permit the residential structure to be used as retail, and convert the non-residentially approved structure on the original permit back to residential use for a caretaker's facility.

Chair Ernst stated that this was a quasi-judicial matter; that no new information or evidence could be offered or discussed at this time; and that tonight's Board review would be based on evidence presented during the September 19, 2011 public hearing.

Ms. Birchett reviewed the agenda notes and the required five (5) findings for this request. She stated that "Site Specific Conditions" 1-6 were added for this new application as well as other standard conditions, i.e., "Standard Site Conditions" 7-9 and "Standard Administrative Conditions" 10-14.

Kathryn Butler arrived at this time (6:45 p.m.) – 9 Board members now present.

Jennifer Wagner, applicant commented briefly regarding bringing the site into compliance.

Board discussed the following:

- Five (5) "Site Specific Conditions" placed on original approval dated June 19, 1995 (17.246 acres) for a landscape design business, lawn & garden shop, and horticulture: *Per staff, these conditions have been maintained.*
- Findings #3 and #5: *Per staff, these findings have been met or may be met through conditions listed in tonight's agenda notes.*

Motion to approve

Mr. Elza made a motion; seconded by Mr. Keim to recommend approval of the conditional use permit revision request as submitted and as recommended by staff with the following 14 conditions:

Site Specific Conditions

1. The recommendations as provided by the Chatham County Appearance Commission and as outlined in Section 12 of the Chatham County Zoning Ordinance shall be followed.
2. All other previous conditions as outlined in the original approval shall remain in effect.
3. A copy of the recombination plat shall be supplied to the Planning Department and filed with the Register of Deeds within six (6) months of approval date.
4. Compliance must be met with Building Inspection regulations, Environmental Health regulations, and the Fire Marshal's regulations before a Certificate of Occupancy may be issued and a copy supplied to the Planning Department.
5. A revised map detailing the current and increased impervious surface calculations shall be submitted before the Certificate of Occupancy is issued.
6. All upgrades, changes, and/or additions as requested shall be completed within 24 months of the approval date of the application or the revised conditional use permit becomes void and null.

Standard Site Conditions

7. Signage, parking, and lighting shall conform to the Chatham County Zoning Ordinance.
8. The application and approved recommendations as provided for and/or conditioned, are considered to be the standards as set forth and shall comply as stated. Changes or variations must be approved through the Planning Department or other approving board before any such changes can take place.
9. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Erosion & Sedimentation Control, Environmental Health Division, Storm water Management, Building Inspections, etc.) shall be obtained, if required, and copies submitted to the Planning Department prior to the initiation of the operation/business.

Standard Administrative Conditions:

10. Appeal - The County shall be under no obligation to defend any action, cause of action, claim, or appeal involving the decision taken herein. In the event a response is authorized by the County concerning this resolution, or any action to enforce the provisions hereof, the applicant, its successors or assigns shall indemnify and hold the County harmless from all loss, cost or expense, including reasonable attorneys fees, incurred in connection with the defense of or response to any and all known or unknown actions, causes of action, claims, demands, damages, costs, loss, expenses, compensation, and all consequential damages on account of or resulting from this decision.
11. Fees - Applicant and/or landowner shall pay to the County all required fees and charges attributable to the development of its project in a timely manner, including, but not limited to, utility, subdivision, zoning, and building inspection, established from time to time.
12. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued determination with the plans and conditions listed above.

13. Non-Severability - If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
14. Non-Waiver - Nothing contained herein shall be deemed to waive any discretion on the part of the County as to further development of the applicant's property and this permit shall not give the applicant any vested right to develop its property in any other manner than as set forth herein.

There was no further discussion and the motion for approval (with the 14 conditions listed above) passed unanimously (9 members).

Ms. Birchett noted that these recommendations would be forwarded to the Board of Commissioners for review during their November 7, 2011 meeting.

3. Request by Sandy Pond Enterprises dba Dogwood Animal Hospital, Parcel No. 18637, Williams Township, located at 51 Vickers Rd., for a revision to the conditional use permit to add an additional 3,500 square foot kennel building and dog runs to the site.

Chair Ernst stated that this was also a quasi-judicial matter that was reviewed during the September 19, 2011 public hearing; that no new information could be offered; and that tonight's discussion would rely on information presented at said public hearing.

Ms. Birchett reviewed agenda notes and the five (5) required findings for this request. Using the large overview map she pointed out, 1) the proposed site for the additional 3500 square foot kennel building; and 2) explained surrounding areas. She noted that concerns submitted at the September 19, 2011 public hearing by Travis Blake, adjacent landowner, have already been addressed or were addressed in tonight's documentation. A copy of those concerns was included in tonight's agenda packet.

Dr. Michelle Pineda and Dr. Linda Sands, applicants, were present.

Blair Pittman, Bobbitt Construction, was present representing the applicant. Mr. Pittman referenced the following staff condition.

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- It is requested that the applicant and Travis Blake, adjoining property owner, discuss the issues regarding relocation of the parking area along the northern boundary line and if an agreement is reached, that it shall be shown on the revised site plan to be furnished to staff prior to issuance of a building permit.

Mr. Pittman stated that this issue was clarified in initial conditions; that additional parking has been proposed; and that the applicant wants to make sure that there are no other requirements along parking lines.

Ms. Birchett explained that the bulleted conditions in tonight's agenda notes were brought forward from the original approval for Board information only; and that the above bulleted condition **is not** an additional requirement.

Some issues reviewed by the Board were:

- are dumpsters on site

It was noted that dumpsters are located on the site.

- is a staff member at the facility when closed
- stray dogs

Dr. Pineda stated that a staff member is not at the facility every night; that occasionally there are stray dogs from adjacent properties to the north and east; and that staff attempts to locate those dog owners.

- dedicated access easement

Mr. Pittman stated that this access is not currently being used; that the applicant agreed on the access in the original conditions; that the deed was never recorded but would be recorded before this project moves forward; that the access was a requirement from Travis Blake, adjacent landowner; that there is a one (1) acre parcel that fronts Hwy 15-501 that Mr. Blake felt in the future (with Hwy 15-501 becoming controlled access) would not be allowed a new driveway access; and that the applicant voluntarily provided this dedicated access easement.

- Site Specific Condition #2 language:

"The potential impervious surface area needed for the easement access shall be provided before any land disturbing activity begins on the expansion project to ensure the maximum will not be exceeded".

Some Board members did not think this parcel should be penalized (regarding impervious surface requirements) – possibly requiring a reduction of the building size due to current watershed and impervious surface regulations.

Motion to approve

Mr. Copeland made a motion to recommend approval of the application as proposed by the Planning Department staff. Mr. Howard seconded the motion.

Amend motion

Mr. Elza made a motion to amend the above motion to **delete "Site Condition #2"** that states:

"The potential impervious surface area needed for the easement access shall be provided before any land disturbing activity begins on the expansion project to ensure the maximum will not be exceeded".

Ms. Butler seconded the motion for amendment. There was no discussion and the motion passed unanimously (9 members), i.e., strike "Site Condition #2" from the original motion stated above by Mr. Copeland.

Vote on motion to approve

The motion passed unanimously (9 members) to approve the request as submitted and as recommended by staff; except with the deletion of "Site Condition #2". The 12 conditions are as follows:

Site Specific Conditions

1. A revised site plan detailing the easement access area to the adjacent property and a copy of the legal document authorizing the access.
- ~~2. The potential impervious surface area needed for the easement access shall be provided before any land disturbing activity begins on the expansion project to ensure the maximum will not be exceeded.~~
2. The recommendations as provided by the Chatham County Appearance Commission shall be followed and all previous requirements shall be maintained.
3. There shall be a limit of 53 animals housed at the facility at one time. Thirty from the previous approval and 23 from this request.
4. All other previous conditions, as outlined in the original approval, shall remain in effect. (Any exclusions are those items which have been repeated in the new additional conditions): Those that remain are:
 - A building permit shall be obtained within 18 months of the date of approval by the Board of County Commissioners and remain valid at all times or the conditional use permit becomes null and void.
 - Mature trees along the northern and north eastern boundary line shall remain and shall be supplemented with an additional variety of vegetation to create a 15 foot wide or wider Type A, Opaque landscape buffer. All other landscaping shall be as shown on the revised site plan, dated October 26, 2005 and shall also be a variety of plantings. Mature, existing trees shall remain on the property where practical. All required landscaping shall be installed prior to issuance of the certificate of occupancy for the structure. All landscaping shall be maintained properly and replaced if found dead or diseased.
 - Signage shall be as shown on the revised site plan. If illuminated, lighting shall conform to the Chatham County Lighting regulations.
 - A 25 foot wide permanent cross access with a 10 foot wide temporary construction easement on either side or temporary construction easement(s) as necessary to construct the connection to the common boundary line of the Bobby Arrington property, parcel #18909 shall be designated on a revised site plan prior to issuance of a building permit for the structure. Legal instruments shall be recorded so that if and when parcel #18908 is developed, access

shall be allowed. All cost associated with said connection shall be the responsibility of the adjacent property owner.

- No animals shall be housed outside overnight. All animals shall be supervised at all times when outside the structure.
- All noise abatement measures and odor control measures as outlined in the application booklet, dated 6/10/05 must be utilized.
- Any dumpster/waste areas must be screened from all adjacent property owners.
- It is requested that the applicant and Travis Blake, adjoining property owner, discuss the issues regarding relocation of the parking area along the northern boundary line and if an agreement is reached, that it shall be shown on the revised site plan to be furnished to staff prior to issuance of a building permit.

Standard Site Conditions

5. Signage, parking, and lighting shall conform to the Chatham County Zoning Ordinance.
6. The application and approved recommendations as provided for and/or conditioned, are considered to be the standards as set forth and shall comply as stated. Changes or variations must be approved through the Planning Department or other approving board before any such changes can take place.
7. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Erosion & Sedimentation Control, Environmental Health Division, Storm water Management, Building Inspections, etc.) shall be obtained, if required, and copies submitted to the Planning Department prior to the initiation of the operation/business.

Standard Administrative Conditions

8. Appeal - The County shall be under no obligation to defend any action, cause of action, claim, or appeal involving the decision taken herein. In the event a response is authorized by the County concerning this resolution, or any action to enforce the provisions hereof, the applicant, its successors or assigns shall indemnify and hold the County harmless from all loss, cost or expense, including reasonable attorneys fees, incurred in connection with the defense of or response to any and all known or unknown actions, causes of action, claims, demands, damages, costs, loss, expenses, compensation, and all consequential damages on account of or resulting from this decision.
9. Fees - Applicant and/or landowner shall pay to the County all required fees and charges attributable to the development of its project in a timely manner, including, but not limited to, utility, subdivision, zoning, and building inspection, established from time to time.
10. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued determination with the plans and conditions listed above.

11. Non-Severability - If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
12. Non-Waiver - Nothing contained herein shall be deemed to waive any discretion on the part of the County as to further development of the applicant's property and this permit shall not give the applicant any vested right to develop its property in any other manner than as set forth herein.

Ms. Birchett stated that these recommendations would be forwarded to the Commissioners for review during their November 7, 2011 meeting.

VIII. NEW BUSINESS:

No reports were submitted.

IX. PLANNING DIRECTOR'S REPORTS:

1. Minor Subdivisions update.

Mr. Sullivan referenced the minor subdivision spreadsheet included in tonight's agenda packet. He stated that one minor subdivision map was approved since last month's update, i.e., 1 lot, 1.878 acres.

2. Update on the Economic Development Commission [EDC] Presentation of the Strategic Plan

Mr. Sullivan stated that during last month's Planning Board meeting the Board discussed having Dianne Reid or another representation from EDC attend the November Planning Board meeting; and that Ms. Reid has indicated that she would not be available for the November meeting but could attend the December Planning Board meeting. It was the consensus of the majority of the Board that this item be placed on the December 6, 2011 Planning Board agenda.

3. Commissioner's Meeting 10-3-11 – Solid Waste Department presentation

Mr. Bienvenue stated that he attended this meeting; that in 2009 the Green Building Task Force recommended an ordinance regarding more recycling for Chatham County; that the ordinance was approved by the Commissioners in May 2010; that the Solid Waste Department [SWD] has been trying to implement the ordinance since December 2010; that he is concerned about difficulties the SWD is having complying with the ordinance relative to the existing and somewhat difficult permitting process; and that the Commissioners want changes to this ordinance to more simplify the process.

Mr. Sullivan stated that he understood that proposed changes to the ordinance would simplify the amount of paper work the current permitting process generates and would also lessen the various departments involved.

Mr. Copeland asked that staff present information on this issue at next month's Planning Board meeting (11-1-11).

4. Opening Planning Board Meetings with a prayer

Mr. Grigg asked if opening Planning Board meetings with a prayer appropriate to all religions would be a problem with Board members. Some options discussed were:

- Begin meeting with a private moment to allow for silent prayers
- Do as the Board of Commissioners do – have a prayer before the meeting is opened

Mr. Sullivan stated that he would discuss this issue with the county attorney and report findings at next month’s Planning Board meeting.


X. **BOARD MEMBER ITEMS:**

1. Karl Ernst- Amending the Planning Board Rules of Procedure

Re: Article V., Meetings, E. and F.

Mr. Ernst reviewed his proposed revisions included in tonight’s agenda packet and noted below:

Item E.

<p><u>Current language:</u> All members are expected to vote on all motions brought before the Board unless the member has been excused from voting by the Chair due to a conflict of interest. If insufficient information is presented for a member to form an opinion on the matter, then, if the calendar of the matter allows (as set in our ordinances and regulations), the member should request that the decision on the matter be postponed until the following regular meeting. The member would then explain what it is he/she needs from the applicant in order to make a recommendation.</p>	<p><u>Proposed language:</u> If a member feels that insufficient information has been presented for him/her to form an opinion on the matter in question, then the member may request, if the calendar for disposal of the matter allows and with the Board’s consent, that consideration of the matter be postponed until the following regular meeting.</p> <p style="text-align: center;"></p> <p><i>Per voting by the Board below – add this sentence to proposed language.</i></p>
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Item F.

<p><u>Current language:</u> A motion will be considered carried if a majority of members present and voting voted in favor of the motion. After the Chair announces the result of the final vote on a motion before the Board, any member who did not vote either for or against the motion, will explain to the Board and for the record, why they did not vote.</p>	<p><u>Proposed language:</u> A motion will be considered carried if a majority of the members, present and voting, have voted in favor of the motion.</p>
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Some specifics discussed were:

- Current wording – Item E. last sentence that states:
“The member would then explain what it is he/she needs from the applicant in order to make a recommendation”. - should this be eliminated; and

- Current wording - Item E. contradicts Item D. that states, "Robert's Rules of Order shall govern the meetings of the Planning Board".

Motion to approve with modification

Mr. Copeland made a motion to approve the proposed revisions as noted above; with the modification to restore the last sentence in current language Item F to proposed language noted above in shaded wording that states:

"The member would then explain what it is he/she needs from the applicant in order to make a recommendation"

Mr. Keim seconded the motion. There was no further discussion and the motion passed unanimously (9 members).

XI. ADJOURMENT: There being no further business, Mr. Grigg made a motion; seconded by Mr. Keim to adjourn the meeting. There was no discussion and the motion passed unanimously (9 members). The meeting adjourned at 7:35 p.m.

_____/_____
Karl Ernst, Chair / Date

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