



**CHATHAM COUNTY PLANNING BOARD**  
**Minutes**  
**February 7, 2012**

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, Chairman  
B.J. Copeland, Vice-Chair  
Philip Bienvenue  
Kathryn Butler  
Dwayne Howard  
James Elza  
Mike Grigg  
Timothy Keim  
Donna Kelly  
Cecil Wilson

Absent:

Philip Canterbury

Planning Department:

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

Other:

Tom Glendinning, Parliamentarian

- I. INVOCATION AND PLEDGE OF ALLEGIANCE:  
Mike Grigg delivered the invocation after which the Chairman invited everyone present to stand and recite the Pledge of Allegiance.
- II. CALL TO ORDER:  
Chairman Ernst welcomed those in attendance and called the meeting to order at 6:30 p.m. He stated that Philip Canterbury would not be attending tonight's meeting.
- III. DETERMINATION OF QUORUM: The clerk stated that a quorum was present to begin the meeting (10 members).
- IV. APPROVAL OF AGENDA: See next item – V. Approval of Consent Agenda
- V. APPROVAL OF CONSENT AGENDA:  
Minutes: Consideration of a request for approval of the January 3, 2012 Planning Board minutes.

Board members had no objections to above items IV. and V. and considered them approved as submitted.

- 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. ELECTION OF PLANNING BOARD CHAIR AND VICE-CHAIR:

**Chairman**:

Chairman Ernst opened the floor for nominations for Planning Board Chairman.

B.J. Copeland nominated Karl Ernst for Planning Board Chairman; seconded by Kathryn Butler. Hearing no other nominations, Mr. Wilson made a motion; seconded by Mr. Howard to close the nominations for Chairman. The motion passed unanimously.

Board members voted unanimously for the nomination of Karl Ernst to serve as Planning Board Chairman.

**Vice-Chair**

Chairman Ernst opened the floor for nominations for Planning Board Vice-Chair.

Mr. Ernst nominated B.J. Copeland for Planning Board Vice-Chair; seconded by Mr. Grigg. Hearing no other nominations, Mr. Wilson made a motion; seconded by Mr. Howard to close the nominations for Vice-Chair. The motion passed unanimously.

Board members voted unanimously for the nomination of B.J. Copeland to serve as Planning Board Vice-Chair.

- VIII. SUBDIVISION:

Request by Mike Sanchez, P. E., John R. McAdams Company, Inc., on behalf of Briar Chapel for Phase 4 and Phase 5 Conversion of 3 existing Lots #'s 246, 446, and 480 to Common Area to accommodate off street parking.

Ms. Richardson reviewed the agenda notes for this subdivision request. She stated that staff recommends granting approval of the request for conversion of three (3) existing lot, #'s 246, 446, and 480 to common area to accommodate off street parking with the four (4) conditions listed in tonight's agenda notes.

Lee Bowman, Project Manager, Newland Communities, was present representing the development. Mr. Bowman spoke briefly about the request.

Board discussion followed. Some specifics discussed were:

- Existing parking spaces per house
- NC Dot would not allow for on-street parking on Briar Chapel Parkway and Great Ridge Parkway
- Lighting plans of proposed parking area to be submitted later in the process
- Lot 246 has occupied adjacent properties and lots 446 and 480 do not
- Parking spaces proposed per lot:

approximately 13 spaces for Lot 446  
11 spaces for Lot 246; and  
8 spaces for Lot 480

Mr. Bowman addressed the above.

No adjacent landowners spoke.

Motion to approve lots 446 and 480

Mr. Elza made a motion to only approve lots 446 and 480; that lot 246 not be approved because it has occupied adjacent properties; and to include the four (4) conditions recommended by staff and listed in tonight's agenda notes.

Mr. Keim seconded the motion. The motion passed 9-1 with all Board members present voting in favor of the motion; except Mr. Ernst who voted against. The four (4) conditions are as follows:

1. The Recreation Exaction Fee and Affordable Housing Fee for Lots 446, and 480 be returned to the developer.
2. The Water Availability Fees for Lots 446 and 480 be credited to the next phase of development.
3. The final plats shall include the parcel #'s for the subject lots.
4. The final plat for Phase 5 North shall show a more detailed vicinity map for Lot 480.

IX. ZONING AND ORDINANCE AMENDMENTS:

1. A request by Warren Mitchell dba Iron Clad Storage to rezone Parcel No. 71691, consisting of approximately 5.41 acres, located at 102 Vickers Rd., and approximately five (5) acres from Parcel No. 18872, from Conditional Use Light Industrial (CU-Ind-L) and Residential 1 (R1) to Conditional Use Regional Business (CU-RB), Williams Township.

Ms. Birchett reviewed the agenda notes for this zoning request. She explained that the request is to change the two current zoning districts (CU-Ind-L and R-1) to one Conditional Use Regional Business District (CU-RB) – a classification that would allow the current use/s and the proposed additional uses in the conditional use permit portion of this request. Ms. Birchett stated that staff recommends approval of the rezoning request as submitted.

Warren Mitchell, applicant was present.

Attorney Patrick Bradshaw was present representing the applicant. He stated that extending and continuing the business use in this location is appropriate; that there are currently a number of business uses nearby; and that this requested zoning district would allow:

- continuing existing self storage
- adding truck rental
- allowing boat and RV storage

No adjacent landowners spoke.

Motion to approve request

Mr. Copeland made a motion; seconded by Mr. Howard to recommend approval of the rezoning request as submitted and as recommended by staff.

Discussion followed. It was noted that the Planning Board has up to three (3) meetings in which to make a recommendation to the Board of Commissioners.

Mr. Bradshaw addressed the uses as it relates to the rezoning request. He stated that when a property is rezoned into a conditional use district it can only be used pursuant to a conditional use permit; that the property cannot be put to any use after it is rezoned to a conditional use district without approval of a permit by the county.

The motion passed 9-1 with all Board members present voting in favor of the motion; except Mr. Elza who voted against.

2. A request by Warren Mitchell dba Iron Clad Storage for a revision to the existing conditional use permit on Parcel No. 71691 to add the additional five (5) acres from Parcel No. 18872 to the permit for the uses of self-storage facility/mini warehouse storage facility with related retail and services (i.e. moving truck rental), recreational vehicle storage facility, and boat storage facility.

Ms. Birchett reviewed the agenda notes, history of the property, and the five (5) required findings that the conditional use permit must meet. She referenced the following three (3) Site Specific Conditions recommended by staff:

1. Replacement advertising/identification signs may be installed as shown on the revised sign plan with the following modifications. There shall be a limit of one (1) sign, no taller than 15 feet from the ground to the top of the sign with a primary sign area no larger than 64 square feet (sign area #1) plus an additional 32 square foot secondary sign(sign area #2) for additional advertising of the property fronting US 15-501. Additionally, there may also be one (1) additional sign at the new driveway entrance on Vickers Road no taller than 7 feet from the ground to the top of the sign and no larger than 32 square feet. All signs shall comply with the lighting requirements of the Zoning Ordinance.
2. The proposed 2,400 square foot truck parking facing 15-501 North is not allowed. There shall be no additional advertising displays or rental truck, RV's, or boat storage in the front of the property facing US 15-501. A revised site plan removing the 2,400 square foot truck parking area shall be provided prior to land disturbance.
3. Landscaping shall comply with the recommendations of the CCAC and shall be conducted at the next optimal planting season following the approval of this request.

Ms. Birchett stated that it is staff opinion that the required five (5) findings have or may be met and recommends approval of the request as submitted with eleven (11) conditions listed in tonight's agenda notes.

No adjacent landowners requested to speak.

Warren Mitchell, applicant was present.

Attorney Patrick Bradshaw was present representing the applicant. He referenced the following conditions recommended by staff:

**Site Specific Conditions:**

- **#1 Sign** - Regional Business District allows a single sign up to 30 feet in height and 150 sq. ft. in area – applicant revised 30 ft. sign (after receiving Appearance Commission feedback) to 25 ft. high with 134 sq. feet of area.

Mr. Bradshaw stated that this size sign is necessary and appropriate for this site. Some specifics he addressed were:

- a) visibility
- b) traffic
- c) property address is Vickers Rd. and site difficult to see from highway
- d) site topography - location of sign is very low.

- **#2 Truck Parking**

- a) proposed 2400 sq ft. parking area placed facing 15-501 North between the building and wooded area
- b) when approaching site from south the view is blocked by existing vegetation and is generally blocked from the north by the existing building.

Mr. Bradshaw stated that the proposed well-screened parking area would not have a large negative visual impact. He noted that there was no evidence from the public hearing record that any harm would come from this parking area; and that the only evidence in the record is that it is an appropriate use and would satisfy required findings in the Ordinance.

- **#3 Landscaping**

- a) condition states:

*“Landscaping shall comply with the recommendations of the CCAC [Chatham County Appearance Commission] and shall be conducted at the next optimal planting season following the approval of this request”.*

Mr. Bradshaw stated his recollection was the discussion at the Appearance Commission meeting was that landscaping along Vickers Road would be installed before this new portion of the project is put to use; that balance of landscaping could be put in at the next optimal planting season after it went in to use; that the applicant is unsure when improvements would be made to initiate this part of the plan; and that the applicant proposes that this condition (consistent with the Appearance Commission request) read as follows:

- b) proposed language:

*“Planting along Vickers Road be required to be done before this new portion of the project goes in to use; and that the remainder of the*

*perimeter planting be put in the next optimal planting season after that portion of the project goes in to use”.*

**Standard Administrative Conditions:**

• **#7 Appeal**

Mr. Bradshaw stated that he understands the portion of this proposed condition that says that if there is an appeal arising from approval of this application that the County may opt not to participate (not to defend the approval); that the condition continues to say that if the County does opt to participate in the appeal the landowner is required to “indemnify and hold the County harmless from all loss, cost or expense, including reasonable attorneys fees” in defending that action; and that he finds this part of the conditional objectionable. Mr. Bradshaw cited that the Law does not allow the County to impose a landowner to have an open-ended commitment to finance the County’s expenses if it chooses to participate in a lawsuit over an application; and that this is not a reasonable condition to impose.

Board discussion followed. Some specifics reviewed were:

- > existing sign size – 4 x 8, 7-1/2 feet tall (32 sq. feet in area) / proposed sign (25 ft. high with 134 sq. feet of area)
- > truck parking area
- > traffic signal proposed for this intersection – to be installed in 2012
- > hours of operation – units accessible 7:30 a.m. – 8:30 p.m. (7 days/week)
- > no gasoline stored on property
- > lighting in proposed area
- > condition #7 (as referenced above – not a reasonable condition for the County to impose). – Per Ms. Birchett, staff would have this condition reviewed by our Legal Council.

**Motion to postpone**

Mr. Keim made a motion; seconded by Mr. Grigg to postpone consideration of this request until next month’s Planning Board meeting (March 6, 2012) to allow staff additional time to consult with the County attorney and resolve this issue before the Board makes a recommendation.

Discussion followed. Mr. Elza stated that to zone to truck rental and decide that truck parking would not be allowed in the front would not work for him; and that it would also be a problem if this is zoned CU-RB (Regional Business) and no sign being allowed the permitted size in Regional Business.

The motion passed 9-1 with all Board members present voting in favor of the motion; except Mr. Wilson who voted against.

Ms. Birchett stated that the Appearance Commission meets tomorrow night and would be reviewing this application during that meeting.

3. Request by the Chatham County Board of Commissioners for the proposed Chatham County – Town of Cary Joint Land Use Plan.

Mr. Howell stated that technically there is no time frame for the Board to act on this issue; that the committee is in the process of scheduling the next Joint

Issues Committee meeting in April; and that if the Planning Board needs more time to review the Plan (other than March and April) the Joint Issues Committee meeting could be rescheduled at a later date.

The Board discussed the draft Plan distributed prior to the January 17, 2012 public hearing. Some specifics reviewed were:

- Planning Board responsibilities - review and make recommendation
- ETJ – no legal requirement for Chatham County to grant the ETJ
- Appoint subcommittee to gather and assess information and submit to the Planning Board at later date – some specifics of concern are Mixed use node, water quality, 1 dwelling/5 acres change – currently one dwelling/1 acre
- Purpose of Plan – to guide any future development

Mr. Howell gave a PowerPoint presentation with emphases on the following topics (reviewed in left to right order):

**Chatham-Cary Joint Land Use Plan**

<b>What Is The Joint Plan?</b>	<b>The Joint Plan Boundaries map showing “Regional Context”</b>
<b>History of the Joint Land Use Planning Effort</b>	<b>Components of Joint Land Use Plan</b>
<b>Proposed Joint Land Use Plan Map</b>	<b>Joint Land Use Plan Document</b>
<b>Guiding Principles Include...</b>	<b>Legal Framework &amp; Plan Amendments</b>
<b>Land Use</b>	<b>Land Uses &amp; Densities</b>
<b>Mixed use Node (MXD)</b>	<b>Areas of Special Consideration</b>
<b>Land Use By Acreage</b>	<b>Public Utilities</b>
<b>Watershed Protection</b>	<b>Plan Implementation Recommendations</b>
<b>Staff Recommendation</b>	<b>Next Steps</b>

Mr. Howell noted that staff recommends the following corrections and changes to the Draft Chatham-Cary Joint Land Use Plan as follows:

- The second paragraph of Section 2.2 should state that the Plan includes **one** potential Mixed Use Node (currently reads two);
- Section 3.2 – Add “utility” in the last sentence of the Low-Density Residential and Very Low Density Residential categories: “Institutional, **utility** and civic uses that are compatible and complimentary to the surrounding neighborhood

may also be considered such as churches, parks, schools, libraries and daycare facilities”; and

- Remove Implementation Step 6.4 – Extra-Territorial Jurisdiction.

Mr. Howell stated that the Cary Planning & Zoning Board would hold a public hearing and begin their review on February 20, 2012; and that the Board of Commissioners and Town Council would make a final decision on the Plan after the Joint Issues Committee submits their final recommendations.

Some issues discussed by the Board were:

- transitioning between one use to another use, i.e. commercial/residential
- draft document replaces existing land use plan in those areas depicted on proposed land use map
- protection of property values
- involuntary annexation
- mixed use nodes

Subcommittee appointed

**Donna Kelly, Philip Bienvenue, and Jim Elza** accepted appointments by Chairman Ernst to serve on the subcommittee with the assistance of Mr. Ben Howell; and that the subcommittee would review the draft Plan and submit a recommendation for Board members to consider at next month’s Planning Board meeting.

Mr. Howell stated that the Joint Plan webpage has various information available including all comments received in writing at the Chatham and Cary public hearings as well as data beginning in 2005 (i.e., maps, input sessions, minutes and etc.).

Mr. Sullivan stated that subcommittee meetings are subject to the “Open Meetings Law” and would need to be coordinated with staff for posting meeting times and locations. Chairman Ernst noted that this subcommittee would be called the “Joint Land Use Plan Review Committee”.

X. NEW BUSINESS:

There were no items discussed.

XI. PLANNING DIRECTOR’S REPORTS:

1. *Minor Subdivisions Update*

Mr. Sullivan stated that an updated spreadsheet was included in tonight’s agenda packet. There were no questions from the Board regarding the minor subdivisions.

2. *FY 2012-2013 Budget Update*

Mr. Sullivan stated that we are in the middle of the budget process for the next budget year; that what has been heard from the Commissioners is to hold the line on the budget; and that no dramatic changes are planned for the Planning Department budget.



*3. Board of Commissioners' Meeting Schedule Modification*

Mr. Sullivan stated that a revised meeting calendar was included in tonight's agenda packet since the Board of Commissioners switched from two meetings per month to one.

*4. Annual Planning Board Survey*

Mr. Sullivan stated that the Annual Planning Board Member Survey was distributed to members earlier tonight. He asked that these be completed and returned at next month's Planning Board meeting. He noted that Donna Kelly and Cecil Wilson were provided separate surveys (annual and training session).

*5. February 20, 2012 Board of Commissioner Meeting*

Mr. Sullivan stated that staff would be presenting proposed amendments to the Zoning Ordinance and Subdivision Regulations during the work session of this up-coming Commissioners meeting; that the proposed Zoning Ordinance amendments are the first phase of what the Commissioners directed staff to do several months ago, i.e., conditional zoning; and that the proposed amendments to the Subdivision Regulations relate to some technical corrections on the conservation subdivision portion of the regulations.

**XII. BOARD MEMBER ITEMS:**

*1. Planning Board 2011 Annual Report*

Motion to approve

Mr. Elza made a motion; seconded by Mr. Keim to approve the report included in tonight's agenda packet. There was no discussion and the motion passed unanimously. Chairman Ernst will present the report to the Commissioners during their scheduled meeting February 20, 2012.

A copy of this report entitled, "Chatham County Planning Board, Annual Report 2011" is filed in the Planning Department – Planning Board Correspondence 2012.

*2. Wal-Mart Proposal*

Mr. Grigg stated that Board members recently received an E-mail regarding a proposed Wal-Mart in Chatham County on the Orange/Chatham County line.

Ms. Birchett stated that staff has not received a submittal request at this time.

**XIII. ADJOURNMENT: There being no further business, the meeting adjourned at 8:47 p.m.**

\_\_\_\_\_/\_\_\_\_\_  
Karl Ernst, Chair / Date

Attest: \_\_\_\_\_ / \_\_\_\_\_  
Kay Everage, Clerk to the Board / Date