



CHATHAM COUNTY PLANNING BOARD

Minutes
March 6, 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
Philip Canterbury
Dwayne Howard
James Elza
Mike Grigg
Donna Kelly
Cecil Wilson

Absent:

Timothy Keim

Planning Department:

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

- I. INVOCATION AND PLEDGE OF ALLEGIANCE: Mike Grigg delivered the invocation and then 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.
- III. DETERMINATION OF QUORUM: The clerk stated that a quorum was present to begin the meeting (10 members).
- IV. APPROVAL OF AGENDA: See Item V. below.
- V. APPROVAL OF CONSENT AGENDA:
Minutes: Consideration of a request for approval of the February 7, 2012 Planning Board minutes.

There were no objections to above items IV. and V. and the Board 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.

- Tom Glendinning, 160 Eddie Perry Rd., Pittsboro, NC

Mr. Glendinning thanked the Board for the privilege and opportunity of having served as Planning Board Parliamentarian. He stated that he has full confidence in the ability of Chairman Ernst to direct the Board with his knowledge of the Planning Board Rules of Procedure.

Chairman Ernst thanked Mr. Glendinning for his support to the Planning Board over the years. He stated that he looks forward to seeing Mr. Glendinning as a possible future Planning Board member.

There were no other requests to speak at this time.

VII. SUBDIVISION:

Request by Sears Design Group, P. A. on behalf of Fitch Creations, Inc. for a revision to the existing sketch plan for Fearington – Section X, consist of 226 lots on 123.8 acres, located off 15-501 N. and Weathersfield, East Camden, and Millcroft, Williams Township, parcel #18998.

Ms. Richardson reviewed the agenda notes for this subdivision request. She stated that it is staffs opinion that the request for revisions to Section X, including revisions to Phases 1 & 2, meets the requirement of the Subdivision Regulations for sketch design review; and that staff recommends granting sketch design revision to Fearington, Section X as requested and as shown on map dated 2/24/12.

Dan Sears, Sears Design Group, P.A., applicant was present. Mr. Sears spoke briefly regarding design. Some specifics noted were:

- 1.) open space retention/addition
- 2.) adequate traffic plans
- 3.) lot layouts / various type housing
- 4.) emergency access provided lands to the south
- 5.) walkway extended from East Camden to Galloway
- 6.) development will take place starting at the eastern end of the property with phases 1 and 2
- 7.) road to be extended westward over time as well as sewer and water

The following landowners spoke:

- Judy Graham, 4056 Sampson, representing Millcroft Homeowners Association
- Kelly McQuoid, 4062 Millcroft
- Heather Rusnak, Executive Director, 3000 Galloway Ridge
- Sam Williamson, 47 Speyside Circle, Galloway Ridge
- David Lindeman, 2 Macon, South Camden
- Donna Stewart, 4076 Fearington Post

Some of their concerns were:

- > stormwater runoff
- > potential erosion
- > adequate buffering
- > structures too close to setback areas
- > stormwater rules – possible
- > Jordan Lake Buffer Rules,
- > sequence of development,
- > open space, i.e. trail adequately buffered from homes, and
- > traffic – possible traffic light installed at Weathersfield entrance near Galloway

Alan R. Keith, P.E., Diehl & Phillips, P.A., Consulting Engineers, was present representing the applicant. Mr. Keith addressed the above concerns.

Board discussion followed and some specifics reviewed were:

- 1.) buffers
- 2.) open area – uses allowed
- 3.) drainage – Millcroft Rd. higher than subject property
- 4.) Jordan Lake Buffer Rules
- 5.) traffic light might be necessary on 15-501 at Weathersfield entrance
- 6.) projections for homes/people at build-out =1602 units / 1.5 persons per home
- 7.) only two access entrances in and out of Fearington Village
- 8.) Watershed Regulations – follows 1994 rules (grandfathered for subdivision, watershed and stormwater rules) – Mr. Sullivan explained stormwater regulations / county terms.

Mr. Keith and Mr. Sears addressed the above.

Motion to approve

Mr. Howard made a motion; seconded by Ms. Kelly to approve the sketch design revision to Fearington, Section X as submitted and shown on map dated 2/24/12, and as recommended by staff. There was no further discussion and the motion passed 9-1-0 with all Board members present voting in favor of the motion; except Mr. Elza who voted against.

VIII. ZONING AND ORDINANCE AMENDMENTS

Items from January 17, 2012 Public Hearing:

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.

Note: Planning Board members recommended approval of this request during the February 7, 2012 meeting as follows:

Motion to approve

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 for approval 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 and the required five (5) findings that this conditional use permit must meet. She stated that the Planning Board recommended approval of the conditional use district during last month's meeting (as noted above); but that the Board requested postponement of a decision on this conditional use permit revision request to allow additional time for staff to consult with the county attorney and revise conditions if applicable. Ms. Birchett referenced the following:

- ***Finding #3 - "The requested permit will not impair the integrity or character of the surrounding or adjoining districts, and will not be detrimental to the health, safety, or welfare of the community".***

Ms. Birchett stated that at the request of the Chatham County Appearance Commission [CCAC] the applicant submitted revised sign plans; that the CCAC did not recommend approval of the revised plans (reduced main sign on US 15-501 to 25 ft. in height); and that the CCAC stated that size of the proposed sign was well out of proportion with other signs in the area (as referenced in tonight's agenda notes) and it was not in keeping with the character and integrity of the surrounding properties.

- ***Finding #5 - "Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary facilities have been or are being provided consistent with the county's plans, policies, and regulations".***

Ms. Birchett stated that the following three (3) revisions requested by the Board during last month's meeting have been satisfied.

- ✓ re-word condition #3 regarding landscaping
- ✓ consult with county attorney, i.e., appeal procedures
- ✓ placing conditions for signage and parking under conditional use permit

Ms. Birchett noted that the planning staff recommends approval of the request with conditions noted in tonight's agenda notes. She referenced three (3) site specific conditions recommended by staff as follows:

Site Specific Conditions

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. All signs shall comply with the lighting requirements of the Zoning Ordinance. The sign at the entrance on Vickers Road shall remain as existing.
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 which requires the perimeter landscaping along Vickers Road and the property not owned by the applicant be installed before the certificate of occupancy of the property is approved and issued. The remaining landscaping along the property boundaries owned by the applicant may be installed at the next optimal planting season following the start of the new commercial area use.

Warren Mitchell, applicant was present.

Attorney Patrick Bradshaw was present representing the applicant.

Mr. Bradshaw stated that he appreciated the work of staff and the Appearance Commission for this second review. He addressed signage, parking, and Section 17.1 of the Chatham County Zoning Ordinance that states, "***The Board of Commissioners may impose such additional restrictions and requirements upon CUPs as it may deem necessary in order that the purpose and intent of the ordinance are served, public welfare secured, and substantial justice done***". Mr. Bradshaw read language from the book titled, Land Use Law in North Carolina written by Professor David Owens, UNC School of Government regarding the Quasi-Judicial process. He emphasized the need for substantial evidence submitted at public hearings as well as ordinance standards.

No adjacent landowners spoke.

Motion to Rescind Recommendation to Rezone:

Mr. Elza made a motion to rescind the Planning Board's recommendation last month to rezone this property to Conditional Use Regional Business (CU-RB). The motion died for lack of a second. Chairman Ernst noted that the decision before the Board currently is the Conditional Use Permit.

Board discussion followed. It was noted that the applicant **does not** agree with staff site specific conditions 1 and 2 listed above.

Some specifics discussed by the Board were:

- clarify timing installation of plantings
- staff consult with county attorney regarding removing the appeal condition
- placing conditions for signage and truck parking on the conditional use permit
- Chatham County Zoning Ordinance Section 17.1 referenced above by Attorney Bradshaw.

Proposed signage - revised

Attorney Bradshaw stated that Mr. Mitchell is willing to agree to a condition that the proposed sign be no higher than 20 ft. tall and 120 sq. ft. of sign area.

Motion to approve

Mr. Wilson made a motion to recommend approval of the request as submitted with the following modifications:

- 1.) The sign be no taller than 20 ft. and a maximum sign area of 120 sq. ft.
- 2.) Deletion of staff condition #2 regarding parking, and
- 3.) Removal of the original condition no. 7 regarding appeals based on county attorney direction.

Mr. Howard seconded the motion. There was no further discussion and the motion passed 7-3 with Wilson, Howard, Ernst, Butler, Bienvenue, Canterbury, and Kelly voting in favor of the motion; and Copeland, Elza, and Grigg voting against.

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

Joint Land Use Plan Subcommittee members:

- Philip Bienvenue
- Jim Elza
- Donna Kelly

Ms. Kelly referenced seven (7) discussion points raised by the subcommittee during their recent meeting as follows:

1. A Plan is needed

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2. There should be no granting of ETJ authority to Cary
3. In the Utility Rescue Policy (Chapter 4), there is no increase in density allowed with utility rescue
4. Concerns about restriction on County providing public water west of Rural Buffer Boundary
5. Agree with Cary Planning & Zoning Board recommendation to designate Horil/Hodge property at intersection of New Hope Church Rd. and Mt. Pisgah Church Rd. as VLDR [**Very-Low Density Residential**]
6. Move Rural Buffer Boundary back east at this location to where it was shown on Map 5 (follow eastern/southern boundary of Woods of Chatham subdivision to Mt. Pisgah Ch. Rd.)
7. Concern about VLDR designation (Avg. 1DU/5Ac.) west of Rural Buffer Boundary – currently R1 (1DU/40,000 sq. ft)

Discussion followed.

VLDR area

Mr. Elza stated that Cary Planning Board proposed that the Horil/Hodge property be changed to the light green VLDR area [very low density area/1 du/5 ac]; that Cary sewer would be needed in order to develop said property at a higher density; that if Cary provides sewer then annexation is likely; and would the Board agree with the Plan if Cary annexes this (i.e., land within the rural buffer boundary).

Utilities west of the boundary

Mr. Elza stated concern that Chatham County's ability to provide water to this area might possibly be removed; and that the Plan should allow Chatham County to install water to this area without having to coordinate with Cary.

Rural buffer boundary

Ms. Kelly expressed concern regarding the rural buffer boundary area and any future development west of this area (i.e., 1 acre/5 acres/dwelling). Some concerns discussed were:

- > water
- > density
- > annexation
- > landowners – aware of Plan
- > consider public perception of the Plan – slack in planning process; make sure Cary doesn't take advantage of the county
- > the Environmental Management Commission needs Chatham County representation (Town of Cary has a representative on the Commission)
- > property rights, 1dwelling/1acre vs. 1 dwelling/5 acres (would 1 dwelling/3 acres be a possibility)
- > family subdivision – allows 2 acre lots
- > poor perk area
- > Plan does not change zoning

Mr. Howell addressed some of the above concerns.

Two citizens (listed below) spoke briefly regarding landowner's rights to have higher density for their property, i.e., 1 – 2 dwelling units/ac.

- Keith Horil, 1620 New Hope Church Road, Apex, NC - *2 dwelling units/ac.*
- Gloria Davis, 316 Alston Road, Apex, NC - *1 dwelling unit/ac.*

Continue discussion next month

Chairman Ernst stated that he would like to continue this discussion for one more meeting; that Mr. Howell would send Board members a copy of the seven (7) recommendations previously sent subcommittee members and Chairman Ernst (referenced above); that members come prepared next month to offer or comment on these recommendations; and that the Board would hopefully make a decision at next month's Planning Board meeting April 3, 2012.

VLDR area

Mr. Grigg requested that Mr. Howell also send Board members a brief synopsis of why the VLDR area is designated such – why limit to 1 dwelling unit per 5 acres.

West of Rural Buffer Boundary

Ms. Kelly suggested that Mr. Howell include the following in the information he is to prepare for the Board:

- > "What to do about the area west of the Rural Buffer Boundary line".

It was the consensus of the majority of the Board that Mr. Howell prepares the above information and forward to the Planning Board for review prior to next month's scheduled meeting April 3, 2012.

Note: During approval of these minutes at the April 3, 2012 Planning Board meeting, the Board voted unanimously to include the attached comments submitted by Philip Bienvenue. See Attachment #1 "Comments: Joint Land Use Plan (JLUP) dated April 1, 2012".

3. Items for March 19, 2012 Public Hearing:

Mr. Sullivan stated that the following items are scheduled for this upcoming public hearing; and that application Information was distributed earlier tonight:

Miscellaneous

1. Public hearing request for search ring approval from Matthew Danielson with Raleigh Towers to locate a telecommunications tower within the northeastern portion of the county.

Legislative

1. Public hearing request by Kent Dickens for a text amendment to the Chatham County Zoning Ordinance to add boat storage facility and recreational vehicle storage to the list of permitted uses under the Industrial Light and Industrial Heavy zoning classifications.

2. Public hearing request by the Chatham County Board of Commissioners for text amendments to the Zoning Ordinance to modify the following sections as described below:
 - Section 3**, Revise the bona fide farm exemption
 - Section 4**, Districts Established – Delete references to districts that will change to conditional zoning districts
 - Section 5**, Conditional Use Districts – Change section to refer to new requirements for conditional zoning districts
 - Section 7**, Definitions – Modify definitions
 - Section 10**, Schedule of District Regulations –Revise to refer to new conditional zoning districts
 - Section 11.3**, Environmental Impact Assessment - specify that environmental impact assessment is only required for non-residential projects and mixed use districts.
 - Section 13**, Lighting – allow internally-illuminated signs, delete amortization requirement for vehicular canopy lighting
 - Section 15**, Regulations Governing Signs – Specify that signs in the right-of-way are regulated by NCDOT
 - Section 17**, Conditional Use Permits – Revise procedures
 - Section 18**, Board of Adjustment – delete Table 2
 - Section 19**, Amendment to Zoning Ordinance – Revise provisions for parties that can apply for a rezoning, specify different procedures for citizen-initiated amendments and county-initiated amendments
 - Section 20**, Enforcement – delete stop work order, clarify issuance of Notice of Violation
 - Section 21**, Penalty for Violations – delete stop work order
 - Section 23**, Effects Upon Outstanding Conditional Use Permits – add procedure for termination of conditional use permits
 - Section 29**, Index – delete entire section

3. Public hearing request by the Chatham County Board of Commissioners for text amendments to sections 11 and 22 of the Countywide Lighting Ordinance to allow internally-illuminated signs and delete the amortization requirement for vehicular canopy lighting.

4. Public hearing request by the Chatham County Board of Commissioners for text amendments to sections 7.2 and 7.7 of the Subdivision Regulations to clarify conservation subdivision standards and review procedure

5. Public hearing request by George Farrell on property located at 306 McGhee Road, Parcel No. 74986, to rezone approximately 2.096 acres of the 10.01 acre tract from R-1 Residential to CU-NB Conditional Use Neighborhood Business, Williams Township.

Quasi-Judicial

1. Public hearing request by George Farrell on property located at 306 McGhee Road, Parcel No. 74986, for a conditional use permit for a boat storage facility and recreational vehicle storage facility on approximately 2.096 acres of the 10.01 acre tract, Williams Township.

2. Public hearing request by Scott Thomas, on behalf of Jessie Fearington, for property located at the corner of US 15-501 N and Morris Road, Parcel No. 65232, to remove approximately .322 acres from the existing conditional use permit to be recombined with property owned by the North Chatham Fire Department.
3. Public hearing request by Talitha Sanders and Ellen Martin for a conditional use permit on Parcel No. 75481, located at 235 Easy Street, Baldwin Township, on 4.564 acres for a daycare center for 15 or fewer children.
4. Public hearing request by NNP Briar Chapel, LLC for a revision to the existing conditional use permit for the Briar Chapel compact community to clarify certain language, acknowledge certain completed commitments, and revise the master site plan to provide additional flexibility with the remaining undeveloped lands, Baldwin and Williams Townships.

IX. NEW BUSINESS:
No items were discussed.

X. PLANNING DIRECTOR'S REPORTS:
1. *Minor Subdivisions update*
Mr. Sullivan stated that an updated spreadsheet was included in tonight's agenda packet.

XI. BOARD MEMBER ITEMS:
No items were discussed.

XII. ADJOURNMENT: There being no further business, the meeting adjourned at 9:00 p.m.

_____ / _____
Karl Ernst, Chair / Date

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

Philip Bienvenue
Date: April 1, 2012

COMMENTS: JOINT LAND USE PLAN (JLUP)

I received my degree in regional and urban planning in 2006 at age 56. As a planner, we learned that we represent the community we serve. Considering my training, it is my job to get all parties to the table. Of course, not all parties will agree on all the issues being discussed.

So, as a planner, I would encourage the parties to talk about things we do agree upon. I was taught how to address issues that are contentious within that community.

In February 2012, three members of this board met as a subcommittee to discuss the Joint Land Use Plan (JLUP). These members consisted of Donna Kelly, Jim Elza and myself (Philip Bienvenue), together with planner Ben Howell. Ben answered a question I had, which was "What is the planning staff looking for from this subcommittee?" He stated direction from the planning board. We, the subcommittee, provided seven points for further discussion. Ben brought forth those points at the last planning board meeting on March 6th. (See minutes pages 20-22)

During the March meeting, I was called upon to speak about the need to review the seven points, but I also stated that each subcommittee member was going to add personal comments. For some unknown reason my personal comments were not included in the March minutes.

I will be commenting on four points in order of importance: 1) *Land Owners*, 2) *Water*, 3) *Density*, and 4) *Annexation*.

Land Owners

As the planning board's purpose is to advise the Board of Commissioners, I feel it is important for all parties to realize that the major stakeholders in the JLUP are the land owners who paid taxes on those properties as they have a vested interest in the plan area. There are other important shareholders at the table including Federal, State and Municipal governments. Also at that table are Non-Governmental Organizations (NGO's) such as Haw River Assembly (HRA) and Chatham Citizens for Effective Communities (CCEC.)

Having said that, it is important for this board to keep in mind who is speaking and whose interest is being represented. I agree it can be confusing to listen to all the opinions. I believe we, as a board, should consider this to be a zoning plan. If there are major disagreements between the parties, it should be handled by the Board of Adjustments. In fact, I would want to expand the scope of that board (this aspect can be a further topic of discussion).

Water

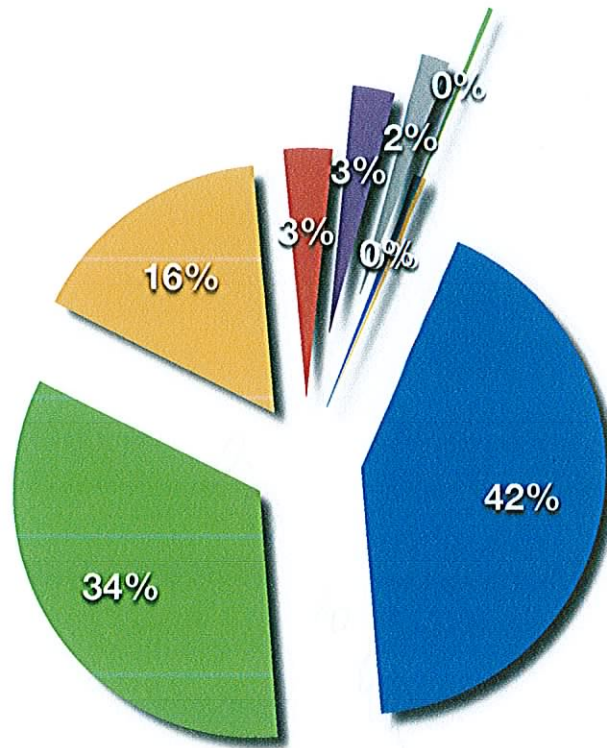
Many have voiced concerns about Jordan Lake and adjacent watersheds. First, and foremost, this lake was built as a means of flood control. Second, as a drinking water supply, Third, for recreation and wildlife. Currently the JLUP is composed of 34% used by the U.S. Army Corps of Engineers (JLUP, January 2012, Chart 3.7.) Currently, many NGO's have concerns about land development. I just recently learned that the county has only one staff member for environmental enforcement. I have to question what can be done to improve better volunteer compliance. As we plan for the future, we should be mindful of land use and how the soils percolate. Will the use of fertilizers in large developments such as golf courses and subdivisions affect the watersheds? Will the use of laundry soap enter the watershed or be contained within the water treatment facilities? Also, who will this be in charge of these facilities? County? State? or Cary?

Density

There is also a question about density. Considering statistics kept by the state of North Carolina, there are 85 rural counties. Chatham County's density falls right in the middle of these 85. I believe that percolation will determine what density will change to. I am also mindful that State Route 751 has been slated to be expanded. How will that have an impact on soils within the plan area? I also understand that North Carolina Parks does periodic burns in brush on federal land. I wonder what governmental authority will answer questions to plan area property owners? Will the owners get a straight answer for which authority (Federal, State, Chatham/Wake counties or city of Cary?) Can Chatham County's Planning Department continue to maintain a special map layer (within G.I.S.) of the joint use plan area?

Annexation

The Geography Information Systems (GIS) should be made available to all land owners in the JLUP. I see that annexation was voted down by the Chatham County Board of Commissioners. However, the issue is not completely dead because land owners can still elect for voluntary annexation with Cary. This may become an important issue regarding schools in the JLUP. Parents may find a Cary school closer to the students home than a Chatham County school. Perhaps those parents may choose to annex to Cary?



- very low density residential
- low density residential
- golf/park/ open space
- office & institutional
- light industrial
- U. S. Corps Property
- road rights-of-way (existing)
- medium density residential
- commercial/retail