



CHATHAM COUNTY PLANNING BOARD

Minutes

April 3, 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:

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

Absent:

Karl Ernst, Chairman
Kathryn Butler
Philip Canterbury
Dwayne Howard

Planning Department:

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

- I. INVOCATION AND PLEDGE OF ALLEGIANCE: Mike Grigg delivered the invocation and afterwards invited those present to stand and recite the Pledge of Allegiance.
- II. CALL TO ORDER: B.J. Copeland, Vice-Chair, called the meeting to order at 6:30 p.m. He stated that Chairman Ernst, Mr. Canterbury and Mr. Howard had notified him that they would not be attending tonight's meeting.
- III. DETERMINATION OF QUORUM: The clerk stated that a quorum was present to begin the meeting (6 members).
- IV. APPROVAL OF AGENDA: Mr. Wilson made a motion; seconded by Mr. Elza to approve the agenda as submitted. There was no discussion and the motion passed unanimously.
- V. APPROVAL OF CONSENT AGENDA:
Minutes: Consideration of a request for approval of the March 6, 2012 Planning Board minutes.

Mr. Bienvenue stated that his comments were omitted from last month's minutes regarding discussion of the Joint Land Use Plan item as follows:

Item VIII. 3.

Request by the Chatham County Board of Commissioners for the proposed Chatham County-Town of Cary Joint Land Use Plan (Pages 20, 21, and 22).

He distributed a 3-page hand-out titled,

“Comments: Joint Land Use Plan (JLUP)

Philip Bienvenue

Date: April 1, 2012.

Motion to approve minutes:

Board members had no objections amending the minutes to include these comments by Mr. Bienvenue. Mr. Grigg made a motion; seconded by Mr. Elza to approve the March 6, 2012 Planning Board minutes as submitted and to include the above referenced comments. There was no discussion and the motion passed unanimously.

- 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. JOINT PLAN: *Item from January 17, 2012 Public Hearing*

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

Mr. Copeland stated that tonight’s discussion is a continuation from last month’s Planning Board meeting; and that the Board needs to take action on the issue tonight. Ben Howell submitted the following information to Board members in his E-mail dated March 7, 2012.

7 Discussion points raised by the Joint Land Use Plan review committee:

1. A Plan is needed
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
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); and

Mr. Grigg asked for a brief synopsis of the VLDR area – why it is designated as such – why limit to 1 dwelling unit per 5 acres.

Following are several reasons that have been brought up in the past by the Joint Issues Committee for why this area is designated as such:

- Belief that larger lots on well/septic (low density development) protect water quality better than small lots on public utility – result in less runoff, possibly less lawn area to fertilize
- Because of lack of sewer in area and poor soils, many lots in area end up being 2 – 5 acres already – the VLDR designation would just make these size lots required
- With equating the VLDR designation to the County's R5 zoning, there are built-in allowances for smaller lots depending on size of parent tract, amount of time a particular parent tract has been owned, and whether the subdivision would be for immediate family members or not
- Referring to the Guiding Principles of the Plan, 5 acre lot sizes better preserve the rural character of the area than 40,000 square foot lot sizes.

Members of the Planning Board Joint Land Use Plan Subcommittee were present as follows:

- Philip Bienvenue
- Jim Elza
- Donna Kelly

The following additional information was distributed to the Board earlier tonight:

- Comments from Mr. Bienvenue referenced above (Item V)., and
- E-mail from Mr. Elza dated April 3, 2012 listing seven (7) recommendations from the Planning Board subcommittee:
 - 1. A plan is needed for the area**
 - 2. Change Horil/Hodge property at Mt. Hope Church Rd/ Pisgah Church Rd from LDR to VLDR**
 - 3. Move rural buffer boundary to correspond with Map 5**
 - 4. Remove restrictions on placement of rural water by the county**
 - 5. A sewer rescue should stipulate that there will be no density increase**
 - 6. Reiterate that no ETJ is given**
 - 7. Discuss implementation steps.**

Tim Keim arrived at this time [6:35 p.m.]

Board members discussed the above recommendations. Some concerns were raised regarding recommendations **2. and 3.** as follows:

#2 Change Horil/Hodge property at Mt. Hope Church Rd/ Pisgah Church Rd from LDR to VLDR - leave this area brown as shown on the Chatham-Cary Joint Land Use Plan map representing Low-Density Residential (LDR) or change the area to green representing Very Low Density Residential (VLDR).

Mr. Keith Horil, one of the property owners of this designated area, stated that the green area was also meant to accommodate the input of property owners in this area.

#3 Move rural buffer boundary to correspond with Map 5 – drainage along New Hope Church Road

Mr. Howell reiterated that staff notes reference adding two (2) recommendations regardless of the Planning Board actions as follows:

- cleanup, and
- add utility uses compatible and complimentary to the surrounding neighborhood in the residential categories

Motion

Mr. Grigg made a motion to accept the recommendations submitted by the subcommittee and forward to the County Commissioners; **but to delete above recommendation #'s 2 and 3; and to include the above two (2) recommendations from staff.** Ms. Kelly seconded the motion. There was no further discussion and the motion passed 5-1-1 with Grigg, Kelly, Copeland, Bienvenue, and Elza voting in favor of the motion; and Mr. Wilson voting against; and Mr. Keim abstaining. Recommendations are as follows:

- 1. a plan is needed for the area**
- 2. remove restrictions on placement of rural water by the county**
- 3. a sewer rescue should stipulate that there will be no density increase**
- 4. reiterate that no ETJ is given**
- 5. discuss implementation steps**
- 6. cleanup, and**
- 7. add utility uses compatible and complimentary to the surrounding neighborhood in the residential categories.**

VIII. REQUESTS FOR ZONING AND ORDINANCE AMENDMENTS: - *Items from March 19, 2012 Public Hearing*

Miscellaneous

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

Mr. Copeland stated that this request is for approval of the ½ mile search ring area (required by ordinance); and that, upon approval, a specific site application would be submitted within the year.

Motion to approve

Mr. Keim made a motion; seconded by Mr. Grigg to recommend approval of the search ring as submitted. There was no discussion and the motion passed unanimously.

Legislative

1. 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.

Ms. Birchett reviewed the agenda notes for this request. She stated that staff supports adding these proposed uses (boat storage facility and recreational vehicle storage) to the light and heavy industrial zoning districts classifications.

Kent Dickens, applicant, was present

Motion to approve

Mr. Elza made a motion; seconded by Mr. Keim to recommend approval of the text amendment as submitted and as recommended by staff. There was no discussion and the motion passed unanimously.

2. 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.

Ms. Birchett reviewed the agenda notes for this request. She stated that staff recommends approval of the rezoning request as submitted.

Board discussion followed. Some specifics reviewed were:

- Crosswinds Marina – State controlled (not Corp of Engineers)
- Mr. Bienvenue (and some other Board members) received two E-mails (dated March 26 and 28, 2012) from Clarence [Ernie] McGhee strongly opposing this request, i.e., decreasing value of his property (445 McGhee

- Rd.); storage behind Farrell's Lakeside Store with landscaping trailers; traffic; difficult to rent his rental property
- Staff did not receive copies of E-mails referenced above from Mr. McGhee
- Timing of comments received – appropriate for this rezoning request

George Farrell, applicant, was present. Mr. Farrell gave a brief history of this land and surrounding properties that included some personal family issues.

Motion to approve

Mr. Wilson made a motion; seconded by Mr. Keim to recommend approval of this request as submitted and as recommended by staff. Discussion followed. Staff noted that the county attorney had been contacted regarding some comments that Commissioner Kost received from one of the neighbors. The motion passed 5-1-1 with Wilson, Keim, Copeland, Grigg, and Kelly voting in favor of the motion; and Elza voting against; and Bienvenue abstaining.

Quasi-Judicial

1. 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.

Ms. Birchett reviewed the agenda notes and the five (5) required findings for this request. She stated that this is the quasi-judicial portion of the two-part request; that new evidence cannot be submitted (after a public hearing); and that it is Planning staff opinion that the five (5) findings may be made and recommends approval of the request with the conditions listed in tonight's agenda notes.

George Farrell, applicant, was present.

Some specifics discussed by the Board were:

- No existing storage facility on this property
- Water would not be needed on the site [no bathrooms or washing of boats planned]
- Gasoline would not be stored on site [only gas in individual boats being stored]

Motion to approve

Mr. Wilson made a motion; seconded by Mr. Keim to recommend approval of the request as submitted and as recommended by staff with conditions noted in agenda notes. There was no further discussion and the motion passed 5-1-1 with Wilson, Keim, Copeland, Grigg, and Kelly voting in favor of the motion; and Elza voting against; and Bienvenue abstaining. Conditions are as follows:

Site Specific Condition

1. Landscaping and screening shall conform to the recommendations of the CCAC and the design guidelines as applied.

Standard Site Conditions

2. Signage, parking, and lighting shall conform to the Chatham County Zoning Ordinance unless otherwise stated in a specific condition noted above.
3. 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.
4. 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, Fire Marshal, etc.) shall be obtained, if required, and copies submitted to the Planning Department prior to the initiation of the operation/business.

Standard Administrative Conditions:

5. 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.
 6. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued determination with the plans and conditions listed above.
 7. Non-Severability - If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
 8. 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.
2. 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.

Ms. Birchett reviewed the agenda notes for this request. She stated that staff recommends approval of the request as submitted.

Scott Thomas, applicant, was present

Board members discussed the portion of the old road that the fire department is petitioning NCDOT to close (i.e., safety issue, public right-of-way). It was noted

that the section of road to be closed would be from US 15-501 N back to the new alignment area on Morris Road.

Motion to approve

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

3. 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.

Ms. Birchett reviewed the agenda notes and the five (5) required findings for this conditional use permit request. She stated that the applicant does not wish to be licensed by the state as a daycare “center” and is limited to no more than five (5) children; that it is Planning staff opinion, based on the information provided and submitted with the application, that Finding #2 [*“The requested conditional use permit is either essential or desirable for the public convenience or welfare”*] has not been met; and that staff recommends denial of this request.

Board discussion followed. Some specifics reviewed were:

- No license required by the state if daycare is limited to no more than five (5) children
- No pre-approvals received from Child Development Services with the State
- Finding #2 (as listed above) staff finds non-supportive
- Prospective clients (i.e. need for this facility)
- Variance appeal process
- Building code issues
- 3 options: approve, deny, postpone to allow for county attorney to advise whether more information can be accepted (up to three meetings to make a decision)
- New evidence would require another public hearing, i.e. clarifying information submitted versus new information

Talitha Sanders and Ellen Martin, applicants, were present and provided information about various plans for their proposed daycare (i.e. 5 children, open 8 a.m. - 5:30 p.m., 5 days/week) applicant to live in this structure the five days the facility is open for daycare.

Ms. Birchett stated the issues revolving around residency in the structure had to do with building code issues because a manufactured home cannot be used for a non-residential use; that (for record clarification) nothing in the Planning staff recommendation (or opinion) has to do with any building codes; and that these specifications have only been addressed for the applicant’s reference in an effort to make the applicant/s aware of other requirements that may cost more money and time than they may be able or want to meet.

Andy Osterlund, Architect, was present representing the applicant. Mr. Osterlund distributed a ten-page hand-out titled, Application for Conditional use Permit Day Care Center for 15 or fewer children, April 3, 2012, Supplemental Market Data.

A copy is filed in the Planning Department. Mr. Osterlund stated the hand-out references market demands – the suitability on this site. He also addressed the order of events of this application (i.e. pre-application meeting and permitting process involving various departments).

Motion to postpone

Mr. Wilson made a motion to table this request until next month's Planning Board meeting (May 1, 2012) to allow the county attorney time to provide a legal opinion on allowing additional information. Board discussion followed regarding the possibility of another public hearing and Planning staff consulting with the county about whether or not this application constitutes new evidence or clarification of evidence already submitted. Mr. Keim seconded the motion. The motion passed 6-1 with all Board members present voting in favor of the motion; except Mr. Elza who voted against.

IX. ORDINANCE AMENDMENTS REQUESTED BY BOC: - Items from March 19, 2012

Public Hearing

Legislative

1. 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

Motion to postpone

Following discussion, Mr. Elza made a motion; seconded by Mr. Wilson to table this issue until next month's Planning Board meeting (May 1, 2012) to allow Board members additional time to review the proposed text amendments. There was no further discussion and the motion passed unanimously.

2. 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.

Mr. Howell reviewed the agenda notes for this text amendment request. He stated that staff recommends approval of the proposal as submitted.

Motion to approve

Following Board discussion, Mr. Elza made a motion; seconded by Ms. Kelly to recommend approval of the proposed amendments as submitted and as recommended by Planning staff. There was no further discussion and the motion passed unanimously.

3. 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.

Mr. Howell reviewed the agenda notes for this text amendment request. He stated that staff recommends approval of the proposed amendments as submitted.

Board discussion followed regarding lot size, road requirements, and administrative review / approval procedure used for conservation subdivisions of 15 lots or less.

Motion to approve

Mr. Keim made a motion; seconded by Mr. Bienvenue to recommend approval of the proposed amendments as submitted and as recommended by Planning staff. There was no further discussion and the motion passed 5-1-1 with Keim, Bienvenue, Copeland, Grigg, and Kelly voting in favor of the motion; and Elza voting against; and Wilson abstaining.

X. NEW BUSINESS:

1. *Impact Fees* – Mr. Bienvenue inquired if Chatham County impact fees had increased. Mr. Sullivan stated that he was not aware of any county increases; but that the Town of Pittsboro may have increased their impact fees.

XI. PLANNING DIRECTOR'S REPORTS:

1. *Minor Subdivisions update* – Mr. Sullivan stated that an updated spreadsheet was included in tonight's agenda packet.

XII. BOARD MEMBER ITEMS:

1. *Invocation and Pledge of Allegiance* – Mr. Grigg stated that while he doesn't mind presenting these he would like to give other Board members an opportunity to do so.

2. *Wal-Mart* - Mr. Bienvenue inquired if there was any new information regarding this proposal. Mr. Sullivan stated that plans were submitted and are being reviewed by various departments (i.e. erosion control, stormwater, and building plans); that their solution regarding sewer continues to be reviewed; and that the Appearance Commission will be reviewing their plans again.

3. *Goodnight property* – Ms. Kelly inquired about this development outside Pittsboro. Mr. Sullivan explained that the bulk of this property is within Pittsboro's ETJ jurisdiction; and that Pittsboro could possibly annex our portion of the property.

XIII. ADJOURNMENT: There being no further business Mr. Wilson moved to adjourn the meeting. Mr. Copeland declared the meeting adjourned at 8:32 p.m.

_____/_____
Karl Ernst, Chair / Date

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