

MINUTES
CHATHAM COUNTY BOARD OF COMMISSIONERS
MEETING
OCTOBER 26, 2004

The Board of Commissioners (“the Board”) of the County of Chatham, North Carolina, met in the Superior Courtroom, Courthouse Circle, located in Pittsboro, North Carolina, at 6:00 PM on October 26, 2004.

Present: Chairman Tommy Emerson; Vice Chair, Carl Outz; Commissioners Margaret Pollard, Bunkey Morgan, and Bob Atwater; County Manager, Charlie Horne; County Attorney, Robert L. Gunn; Assistant County Manager, Renee Dickson; and Clerk to the Board, Sandra B. Sublett

The meeting was called to order by the Chairman at 6:07 PM.

PLEDGE OF ALLEGIANCE AND INVOCATION

Chairman Emerson invited everyone present to stand and recite the Pledge of Allegiance after which Commissioner Pollard delivered the invocation.

PLANNING DEPARTMENT

Keith Megginson, Planning Director, reviewed the new guidelines for the public input session.

The Chairman opened the floor for public comments.

Joe Fraser, 4 Fearrington Post, Pittsboro, NC, stated that he would like to address the traffic issue and resultant traffic problem with relation to the pedestrian crossing; that Newland had assured them that pedestrian crossings would be safe; that pedestrian signaling was provided at similar intersections at Prestonwood Shopping Center in Cary; that his pictures of similar areas in Cary show that they are in fact different from Highway #15-501; that the traffic on Highway #15-501 is actually quite different; that the developer’s “comparisons” are actually very different; that asking pedestrians to cross a four-lane highway with heavy truck traffic is not safe; that Briar Chapel is not a contiguous community; and that this huge city, Briar Chapel, would divide the County. (Exhibit 34)

Gray Styers asked if Mr. Fraser knew the traffic count at the intersections in Cary. He asked if he knew the peak hours and population numbers at the intersection in Cary.

Mitch Renkow, stated that he is a professor of economics at NC State University; that assessing the overall benefits requires knowledge of costs, benefits, and how benefits will be utilized; that Briar Chapel will undoubtedly increase economic activity; that Briar Chapel will likely be considered a bedroom community; that many jobs would be taken from people outside the County; that the employment creators will be low-paying service jobs; that the impact fees plus the voluntary contribution will go a long way to defray costs to the County; that the \$900,000 estimated increase in revenue is generous; that the Board and the citizens should be prepared for this development not to pay for itself; that the rural nature of the area will be irrevocably changed; that amenities will benefit the new

residents in the area; and that the costs would be felt by a larger population than just the new residents. (Exhibit 35)

Gray Styers asked if Mr. Renco performed any statistical analysis in preparing his report.

Beth Kricker 224 Buteo Ridge, Pittsboro, NC, thanked the Board for the extended hours for the public input. She stated that her daughter worked in Cary and her commute used to be fifteen minutes; that the development made the situation worse; that she left Cary to come to Chatham County to get away from it. She asked what happens when Briar Chapel puts 31,000 more cars on the road. She stated that maybe Newland would consider a light rail; that Cary did put their developments on hold, but that was a just a temporary halt; that many former private school students returned to public school due to the economy; that schools in Wake County had to turn to temporary classrooms; that the wastewater treatment plant is of great concern; and that she questioned what happens when the system fails. She urged the Board to consider what will happen to this community and stated that these huge developments do not pay for themselves.

Evelyn Barrow, 682 Whitehurst, Pittsboro, NC, stated that the Briar Chapel area is not compact; that the community should be walkable; that there is little compact about it; that children are unlikely to walk ten miles round-trip from the northern tip to the southern tip to go to school; that the appendage on the eastern side of Highway #15-501 also makes it not compact; that it is not too late to amend the layout; and that it could be an asset if it conforms more with the Compact Communities Ordinance. (Exhibit 36)

Lee Sullivan, 255 Lois Lane, Pittsboro, NC, stated that he is an adjoining property owner; that they talked with BC at first about potential problems and they addressed them; that BC is a good neighbor already; that other neighbors have more fear of 1,500 septic tanks and environmental impacts than a system that can be monitored by the county, state and Newland; that a malfunction could be taken care of with one system rather than many; that the open space is preferred to a house every acre and a half; that the recreation is sorely needed; that Fearington Village has worked out excellently; and that the traffic problem will happen but that it is bound to happen.

Ray Greenlaw, 2 Jordan Drive, Pittsboro, NC, stated that he had four issues to address; that through the development of the Compact Communities Ordinance there was one section that remained constant: Section 6: Location; that the Compact Communities Ordinance was approved in April 2004; that in June one of Newland's legal teams asked for an amendment to Section 6; that under the Compact Communities Ordinance the applicant offers widely varying degrees of guarantees with regard to wastewater and stormwater; that the financial guarantees should be equal; that the state does not have staff adequate to regulate the wastewater system; that Newland should take appropriate action to insure that the appropriate regulations are followed; and that Newland should prepare a legal instrument that contains covenants and restrictions that will govern the community. (Exhibit 37)

Barrett Powell, 122 Hedgecock Farm, Pittsboro, NC, stated that he is amazed that even after four years they are still asking for this proposal to be changed; that Chatham County is not on the map with regard to commercial development; that it is the sense that Chatham "doesn't want it" even when it is one of the fastest growing counties over four years; there were only 300 new students; that slow growth doesn't pay for itself either; that Portland, OR put slow growth implements in place ten years ago; that slow growth caused houses to increase in price; that only one third of the median income families can afford to live there. (Exhibit 38)

Jon Turner, 364 Hubert Herndon Road, Chapel Hill, NC, stated that he is the president of the Herndon Woods Homeowners Association; that four years ago he stood before the Board and asked

them to reject the proposal; that the homeowners now support the proposal; that Newland responded to their concerns; that the buffers and setbacks have been increased; that commercial development has been reduced or moved; that the schools, parks and walking trails have been provided; that Newland has always been willing to talk; that this is an attractive development and their subdivision now supports the development.

Paul McCoy, 3557 Pea Ridge Road, New Hill, NC, stated that enough is enough; that the Coalition cannot be appeased; that it is time for the Board to vote for this project to proceed; that this plan will be a benefit for the County; that jobs will be created and sales tax will be realized; that property tax will continue to increase; and that the Coalition will continue to challenge developments legally.

Jeff Brewer, 57 Pinewood Drive, Siler City, NC, stated that he is a small business owner in Siler City; that the County cannot close the door on development; that he is committed to assisting projects that will be an asset to the County; that in economic development, businesses have all the statistics except housing and quality of life issues; that the County has lost potential industries for these reasons; that the developers have used conservative numbers for revenue projections; that these opportunities do not happen often; that Newland has not done as many and as successful developments by doing shoddy work; that Newland has adapted their proposal to fit the Compact Communities Ordinance; and that Newland is a concerned developer. He urged the Board to approve this project.

Barbara McCoy, 3557 Pea Ridge Road, New Hill, NC, stated that she is reading from a letter written by John D. Gray; that he urged approval of the project; that the Land Use Plan identified projects of this nature in this area; that the proposed Briar Chapel is in the area governed by the Compact Communities Ordinance; that Briar Chapel conforms to the regulations; that thousands of new job opportunities will be provided; that Chatham will be able to capture sales tax revenue; that other retailers will come to Chatham; that open space will be preserved; that other amenities will be provided like an EMS base, sheriff's substation, water tank and wastewater treatment facility; that Briar Chapel will also contribute eight million dollars to the Board of Education to help with school construction; and that these benefits will not be realized if piecemeal development occurs. (Exhibit 39)

Kyle Mathews, 22 Crosswinds Estates Drive, Pittsboro, NC, stated that he is representing East Chatham Baseball and that they are at their maximum. (Exhibit 40)

Sandra Tripp, 1180 Andrews Store Road, Pittsboro, NC, stated that she was at the night's meeting to appeal to the Board with regard to the 100 ft. perimeter buffers afforded to all adjacent property owners except herself. She stated that the proposed main south entrance off Andrews Store Road runs along the east side of her property line; that the developer is requesting this as the entry based on the retail within the Village Center; that she has found no mention of a proposed public road allowed within the one hundred foot perimeter buffer; that the developer says that the State Department of Transportation will require them to have the proposed entrance across from Parker Herndon Road; that if this is the case, the Department of Transportation's request was based on the request by the developer and that she believes that the request can be changed or altered to accommodate all adjacent property owners with the 100 ft. perimeter buffer; that currently there are four proposed entrances within one half mile of each other on Andrews Store Road; that she encourages the Planning Board and the Board of Commissioners to revisit this area to evaluate why there is a need for four entrances within such a short distance and if one of the other three could be used as the main south entrance instead of the proposed one; that she has had several meetings with Mitch Barron of Newland Communities and together they have come to several mutual agreements; and that she appeals to the fairness of the Board in applying the 100 ft. perimeter buffer to all adjacent property owners. (Exhibit 41)

Judith Ferster, 228 Carolina Meadows Villa, Chapel Hill, NC, encouraged the Board to revisit why there are four entrances onto Andrews Store Road within a half-mile area. (Exhibit 42)

Clarence Jarrell, stated that he is affected by this project as their property lines run together for about a mile and a half; that when this project was first proposed, he was against it; that growth is going to come whether they want it or not; that Newland has worked with them over the last two years; that some things have been changed that they weren't satisfied with; and that this is now a good plan that will benefit the County.

Peter Theye, 1065 Boothe Hill Drive, Chapel Hill, NC, stated that he is an electrical contractor; that none of the materials used to build the houses will come from Chatham; that he is concerned about the speed that development is coming to Chatham; that he is worried that run-off from construction and spray irrigation will pollute drinking water; that he begs the Board to understand the breadth of the decision they must make; and that perhaps an adequate facilities ordinance should be examined.

Charles Johnson, 1430 Sandy Branch Church Road, Bear Creek, NC, stated that he is there to represent southwest Chatham; that new jobs will be created; and that Briar Chapel has complied with everything that has been asked of them.

Bob Eby, 1056 Fearrington Post, Pittsboro, NC, stated that although he is not opposed to Briar Chapel, he believes it could be better; that the calculation to revenue projections is very open to variance; that with two changes, the projected surplus changes to a deficit of \$440,000; that this is a sensitive calculation; that providing a surplus is far from a sure thing; that newer houses have a higher student generation rate; that the traffic to and from Briar Chapel will be anywhere between 53% to 120% over the current traffic numbers; that many new developments are not included in Briar Chapel figures; that a public transit lot should be constructed before one third of the homes are built; that a pedestrian overpass should be constructed; that Andrews Store Road should be widened before the public school is opened; and that the increased traffic will have a tremendous impact. (Exhibit 43)

Bob Esau, 80 Bluff Trail, Pittsboro, NC, stated that planned growth and increased tax revenue is needed; that citizens need quality schools without tax increases; that the County needs commercial and retail development; that Chatham residents need to spend their money here in Chatham; that he is a small business owner that pours a lot of money into the economy; that it would be a grave mistake to pass up this opportunity; that it unreasonable to think a business will locate here without making money; and that Newland will not solve all of Chatham's problems.

Polk's Trail Homeowners Association concerns deal with the traffic; that Newland has stated that they do not want to use Creek's Edge as a pass through; that they are in favor of Briar Chapel, but do not want Creek's Edge to be used as a thoroughfare; that there are no sidewalks, hidden drives, and hidden streets; and that it would be dangerous to use this as a pass through to Highway #15-501.

Barbara Ford 103 Persimmon Hill, Pittsboro, NC, stated that she is not "no-growth"; that she is speaking on behalf of Chatham Coalition for Effective Communities; that the Board should take a broad look at the northeast section of the County; that with proposed and existing developments, it will total 8,992 new homes and 18,820 people; that population increases will be greater than the census predicts; that this does not count the unknown; that the larger picture shows a larger impact; that they asked the Board to be cautious and deliberate; that the impact on the County should be manageable; that all citizens will be affected; and that one cannot go back and fix over development. (Exhibit 44)

Scott Robertson, 1335 Manns Chapel Road, Pittsboro, NC, stated that he had two questions; one was regarding endangered species on the property; that the natural heritage database is behind; that

everyone should do unto others as they would have them do unto you; that one should err on the side of caution; that the County needs new growth and new business; that there are not a lot of jobs here; that Perry Harrison School does not have a science program; that Chatham has a dark underbelly; that law enforcement doesn't have the manpower to shut them down; that there are a lot of state endangered species in the County as well; and that there are kudzu problems in this area that need to be dealt with as well.

Tom Vanderbeck, 8180 Old Graham Road, Pittsboro, NC, stated that the thirty acre tract on the east side of Highway #15-501 is an end around the Compact Communities Ordinance; that Newland worked hard to promote and pass the Compact Communities Ordinance; and that locating the commercial area across Highway #15-501 disturbs the sense of community. He urged the Board to envision a connected community.

Debbie Tunnel, 282 Moore Mountain Road, Pittsboro, NC, stated she is reading for Ken Tunnel; that he specifically wanted to examine two groups; that Newland is the largest residential developer in the nation; that their largest investors are Hunt Oil (Texas) and the California State Employee's Pension Fund (California); that it is important to know whom the County is getting involved with; that Newland is interested in themselves and maximizing profits; that the Board represents all of its citizens; that Newland's similar developments are in counties that have larger populations and a much more extensive infrastructure; and that the development is large for a first test. They urged the Board to look at the site plan again and make the best decision for all the citizens of Chatham. (Exhibit 45)

Jim Granger, 75 Fearrington Post, Pittsboro, NC, stated that there will be challenges for the Board and for neighbors; that communication and coordination needs to take place for this development to be successful; that there must be support of the community by other residents in the northeast area of the County; that he recommends the formation of a nine-member task force to examine this development and its impact; that the task force would issue a report card on the developing community on: communication; support; problem-solving; safety and health; school accomplishments; small business viability; vehicle dependency; volunteerism; voting; that this could be a profitable, people place; that it will take much effort to affect all of these areas. (Exhibit 46)

Larry Ballas, 139 Indian Creek Lane, Apex, NC, stated that there will be a lot of impervious surfaces that could cause drought; that one in four water storage areas in North Carolina will have problems by the year 2010; that there are traffic problems all over the place; that most people don't want to live any more than forty-five minutes from where they work; that trying to attract people here will be challenging; that Cary development has the infrastructure to support development; and that the estimated revenue has a plus and minus attached to it.

Martha Lisk, 300 Forest Creek, Pittsboro, NC, NC, stated that increased impervious surface will increase stormwater run-off; that it is much cheaper to implement preventive measures on the front end than after; that the burden on taxpayers could be tremendous on residents if problems occur; that Hurricane Fran should have been used as comparison data; that initially the wastewater treatment facility was located in a low-lying area; and that mass-transit was discussed by the Chapel Hill Town Council as a suggestion for Briar Chapel.

Loyse Hurley, 16 Matchwood, Pittsboro, NC, stated that an adequate compact community must be walkable and not a burden to the taxpayers; that much of the information received during these hearings bring into question the information provided by Newland; that finding #3 regarding the health and welfare of the community is particularly troubling; that the Chatham Coalition for Effective Communities recommends that the development be reconfigured to mitigate the discrepancies; that it is not consistent with smart growth principles; that the design needs to be modified to encourage foot

traffic; that conditional conditions may be needed; that Bennett Mountain should be retained in its current state; and that an engineer should supervise the construction of the wastewater treatment plant. (Exhibit 47)

Joshua Kricker, 224 Buteo Road, Pittsboro, NC, asked a series of questions that were entered into the record.

Lynn Hayes, 612 Oak Island, Chapel Hill, NC, stated that she is a neighbor and real estate professional. She stated that she performed a peer review of the market analysis; that the average home price of \$317,000 is not accurate; that the Raleigh Durham area was used as a benchmark; that interior commercial spaces take time to insure viability; that the fact that the open space and park area are in the spray field may decrease its marketability; that the data is skewed with regard to sales ratio annually; and that these inconsistencies call into question the reliability of other figures. (Exhibit 48)

John Gray, 123 Cub Creek Road Extension, Chapel Hill, NC, stated he is concerned with the mean-spirited atmosphere in the County; that discussing topics openly is good; that misrepresenting facts and ideas for gain is dangerous; and that the testimony of Dr. Lucier was tainted and biased based on statements he made to the speaker at the last public hearing.

Tommy Glosson, 738 Mt. Olive Church Road, Pittsboro, NC, stated that he is in favor of Briar Chapel on behalf of agricultural interests; that the density adds to the County's tax base that may lessen the tax burden on older folks that want to retain their land; that they have exceeded the Compact Communities Ordinance; that Briar Chapel will exceed the impact fee by \$2,000; and that they are donating land for school sites.

John Heuer, 13 Matchwood, Pittsboro, NC, stated that he adjoins the commercial development; that he thinks compact communities are a sound idea; that he encourages the developer to use alternative energy sources in commercial public buildings; that it would be good education for other residents; that he encourages the Board to coordinate with other town boards about the vision of Chatham County.

Mary Bastin reading for **Judith Ferster** stated that Newland has done an acceptable job of meeting the needs of the community, but that she has concerns; that a small library and pedestrian crosswalk are concerns; that she had questions regarding the coordination between Chapel Hill and Triangle Transit about mass transit and "park and rides"; that she wonders how is the percentage of affordable housing is calculated. She asked if individual houses will be constructed with regard to energy efficiency; that will the community be constructed mindful of handicap accessibility and universal design; and stated that she would like to hear the Board's reasons for why Briar Chapel fits into context of development in Chatham.

Jeffrey Starkweather, PO Box 217, Pittsboro, NC, stated that he was speaking on behalf of Chatham Coalition for Effective Communities and three other neighbors; that Chatham Coalition for Effective Communities is not opposed to the development but supports the idea of compact communities; that the Chatham County section of the Land Use Plan talks about the five-minute rule; that in a really walkable compact community it should take only five-minutes to get to anything; that by having walkable communities it actually increases the value of the retail/commercial space; that this community does not meet the standard of walkability; that the Board needs to ask Newland to consider reconfiguring the development; and that the town center should be in the development itself. (Exhibit 49)

John Graybeal, 3396 Alston Chapel Road, Pittsboro, NC, stated he was disturbed by the statements regarding George Lucier and that he was not a person that would allow bias to enter into his

decisions.

Gray Styers stated that in many other land use hearings, many adjacent landowners come out to speak with regard to the development; that some of the adjacent communities are satisfied with the development and the dealings with Newland; that many others have not addressed the proposal per se, but the idea of no growth; that growth is coming and the way to do it is smartly; that the issue is not whether growth will occur but how it will occur; that the adoption of the Land Use Plan outlined the development of high density mixed use development along Highway #15-501; that the Compact Communities Ordinance has already been adopted that allows Briar Chapel to proceed; that Briar Chapel complies with the Compact Communities Ordinance specifically; that Newland has found a way to design a project that meets the Compact Communities Ordinance; that this is a community of neighborhoods; that people in those neighborhoods can walk to a community feature within five minutes; that there are three things the Board needs to vote on; that the primary issue is if the applicant has met the five findings; that the Board must only consider factual evidence presented by both sides; that this community was designed in great detail to meet or exceed every part of the ordinance; that student generation rates are calculated using a variety of data; that one cannot use general and unrelated data, such as number of bedrooms to determine the student generation ratio; that inflation rates have been built into their calculations of project school construction costs; that their conservative numbers adequately cover potential costs of construction; that they examined comparative market data to determine average home price estimates; that Newland will have a great deal of up-front cost to insure that this development is a success; that people who have lived and worked and tried to create jobs in Chatham County support this development; that Briar Chapel is part of the solution; that Newland is paying up-front for preventive measures; that concerns about the following items: good schools, beautiful appearance, protecting the environment, a sense of community, and excellent County services will all be met by Briar Chapel and Newland Communities.

Gray Styers asked that the record reflect that the area includes no red-headed woodpeckers.

ADJOURNMENT

Commissioner Pollard moved, seconded by Commissioner Outz, that there being no further business to come before the Board, the meeting be adjourned. The motion carried five (5) to zero, and the meeting was adjourned at 10:20 PM.

Thomas J. Emerson, Chairman

ATTEST:

Sandra B. Sublett, CMC, Clerk to the Board
Chatham County Board of Commissioners

****(All exhibits are stored in the supply closet of the Office of the Clerk to the Board. Other miscellaneous papers that were submitted to the Clerk are also included.)**