



CHATHAM COUNTY PLANNING BOARD

Minutes

September 11, 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
Philip Canterbury
James Elza
Dwayne Howard
Donna Kelly
Deepa Sanyal
Cecil Wilson

Absent:

Kathryn Butler
Mike Grigg

Planning Department:

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

I. INVOCATION AND PLEDGE OF ALLEGIANCE:

Mr. Copeland delivered the invocation and afterwards invited everyone to stand and recite the Pledge of Allegiance.

II. CALL TO ORDER:

Chair Ernst called the meeting to order at 6:30 p.m.

New Planning Board member:

Chair Ernst welcomed Deepa Ayesha Sanyal as our new Planning Board member. Ms. Sanyal was appointed to the Board by Commissioner Kost to fill the unexpired term of Timothy Keim who resigned from the Planning Board this past May. The Board of Commissioners approved the appointment during their regular meeting August 20, 2012.

Ms. Sanyal stated that she has lived in Chatham County for three (3) years and has been involved in planning related activities, i.e., Green Building and Sustainable Energy Advisory Board; and that she is very pleased to have this opportunity to contribute to the Planning Board.

Board members introduced themselves to Ms. Sanyal.

III. DETERMINATION OF QUORUM:

The clerk stated that a quorum was present to begin the meeting (8 members).

IV. APPROVAL OF AGENDA: See Item V. below.

V. APPROVAL OF CONSENT AGENDA:

Minutes: Consideration of a request for approval of the August 7, 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.

- David Holdaway, president of the Cole Place Townhomes Homeowner's Association (HOA)

Mr. Holdaway spoke regarding criteria considered for modifications to conditional use permits. He voiced concerns regarding:

- assessments being done to ensure that criteria elements are being properly considered;
- making sure all previous conditions are met, reviews are done, and any issues are addressed before approving revisions; and
- easement for utilities, roads, stormwater, etc.

Mr. Sullivan addressed some of the above concerns and explained the conditional use permit process.

Mr. Copeland noted that citizens can speak at public hearings regarding conditional use permit applications in an effort to resolve various issues.

VII. SUBDIVISIONS:

1. Request by George J. Retschle, P. E. on behalf of Sheryl-Mar Co., LLC for final plat approval of Fieldstone, Phase 2, consisting of 13 lots on 19.16 acres, located off Mann's Chapel Road, S. R. 1532, Baldwin Township.

Ms. Richardson reviewed the agenda notes for this subdivision request. She stated that the plat meets the requirements of the Subdivision Regulations with the final approvals of other agencies; and that the Planning Department recommends acceptance of the financial guarantee and approval of the final plat titled, "Fieldstone Subdivision – Phase 2" as submitted, with one (1) condition as noted in tonight's agenda notes regarding recordation of the plat.

Dave Ballentine, the developer with Ballentine Associates, P.A. was present representing the applicant. Mr. Ballentine asked that the Board approve the request as submitted.

There was no discussion among the Board.

Motion to approve

Mr. Howard made a motion; seconded by Mr. Wilson to grant approval of the request as submitted and as recommend by staff with the following condition:

- The plat not be recorded until the county attorney has reviewed and approved the form of the financial guarantee and the contract.

There was no discussion and the motion passed unanimously (9 members).

2. Request by Bill Mumford, Sr., Project Manager, on behalf of NNP Briar Chapel, LLC for preliminary plat approval of Briar Chapel, Phase 6, North (Sections 1 & 2), consisting of 115 lots on 30 acres located off Andrews Store Road/Parker Herndon Road, S.R.-1528/S.R.1526, Baldwin Township.

Ms. Richardson reviewed the agenda notes for this subdivision request. She stated that staff is concerned that according to the dam construction plan this buffer area (dam and access area) cannot be re-vegetated with trees or shrubs; that the applicant and staff have a difference of opinion on what is allowed within the perimeter buffer; and that staff recommends approval of the road names Cliffdale Road, Tarwick Avenue, Buttress Way Dr., Greenleaf Drive, and Weathersby Drive, and preliminary plat approval of Briar Chapel, Phase 6, North (Sections 1 & 2) with the following six (6) conditions as listed in tonight's agenda notes as follows:

1. The final plat shall be revised to show no storm drainage easements or stormwater features located within a perimeter buffer, except for limited grading that can be re-vegetated.
2. Prior to final plat submittal a re-vegetation plan shall be submitted to staff for review and approval for those areas that require limited grading within the perimeter buffer.
3. A revised construction plan for the stormwater pond adjacent to the Marvin Meacham property shall be submitted for review by staff prior to any land disturbing activities associated with construction of the stormwater pond.
4. A deed restriction, satisfactory to the County Attorney, for the perimeter buffers that permanently protects the land as a buffer and identifies the maintenance responsibility that rests with the homeowners association, shall be recorded with the Chatham County Register of Deeds prior to recordation of the final plat.
5. The road names Buttress Way and Weathersby Way shown on the preliminary map shall be changed on the final plat to read Buttress Way Dr. and Weathersby Drive. Serenity Hill Circle also is to be changed to N. Serenity Hill Circle.
6. The following items shall be revised on the final plat:
 - A. Label the Storm Drainage Easements 'private', except those maintained by NCDOT.

- B. Number open spaces
- C. Show vicinity map
- D. Word floodplain note to state that Phase 6 North does not contain any floodable area.
- E. Number stormwater pond

Attorney Nicolas Robinson was present representing the applicant.

Mr. Robinson gave a brief summary of the Briar Chapel development and explained his interpretation of the regulations / ordinances regarding riparian and perimeter buffers. Mr. Robinson referenced hand-outs distributed to Board members and staff as follows:

> *Compact Communities Ordinance, Section 9: Buffers*

9.1 Riparian Buffers

Prohibited within riparian buffers: "Stormwater features, except in limited circumstances....."

9.2 Perimeter Buffer

No prohibition on stormwater features in perimeter buffers

Mr. Robinson stated that the Compact Communities Ordinance does not include a requirement that the stormwater easement be made to be outside of the perimeter buffer (which is what Planning staff is proposing).

> *Briar Chapel Phase 6 North – map showing re-vegetation plan*

Mr. Robinson stated that the applicant proposes an alternate condition that a re-vegetation plan would be submitted for plantings to perimeter outside 'toe' of dam. He asked that the same treatment given to Phase 5 be granted for these sections of Phase 6.

> *Proposed Revised Conditions, September 11, 2012*

Mr. Robinson stated that the applicant agrees with staff conditions 4, 5, and 6. He referenced proposed changes to staff conditions 1 and 2 and requested that staff condition #3 be deleted, as noted in hand-out.

Copies of the above hand-outs are filed in the Planning Department.

Mr. Robinson requested that the Board agree with Planning staff and approve Phase 6 preliminary plat submittal **with the conditions requested in substitution as referenced and noted in above hand-out titled, 'Proposed Revised Conditions, September 11, 2012'**.

Board members discussed the above and the reasoning for staff recommendation/conditions, i.e., language submitted in 2004 Briar Chapel original application materials.

Motion to approve:

Mr. Copeland made a motion to recommend approval of the request as submitted and as recommended by staff **with exception of staff conditions 1, 2, and 3**; and that between now and the Commissioner's meeting (October 15, 2012) staff and applicant work to find a compromise to reduce the amount of buffer that is being usurped; and to increase the distance of the pond to the perimeter. Mr. Elza seconded the motion and added a clarification that staff and applicant work on minimizing the pond intrusion into the perimeter buffer. It was noted that if a compromise is not met between staff and applicant the Commissioners would decide the conclusion or that the applicant might have to resubmit a revised application. There was no further discussion and the motion passed unanimously (9 members).

The five (5) conditions (as listed in Mr. Robinson's hand-out noted above) are as follows:

1. Applicant has voluntarily agreed to not place any stormwater structures (such as outlet piping, endwall or velocity dissipater) within the 100' perimeter buffer. Stormwater easements, grading and pond maintenance access are allowed within the 100' buffer to the extent depicted on the preliminary plat submittals.
2. The re-vegetation plan submitted herewith by Applicant (and attached hereto) is approved and shall be installed during the first seasonally appropriate time following final plat approval for Phase 6 N.
3. A deed restriction, satisfactory to the County Attorney, for the perimeter buffers that permanently protects the land as a buffer and identifies the maintenance responsibility that rests with the homeowners association, shall be recorded with the Chatham County Register of Deeds prior to recordation of the final plat.
4. The road names Buttress Way and Weathersby Way shown on the preliminary map shall be changed on the final plat to read Buttress Way Dr. and Weathersby Drive. Serenity Hill Circle also is to be changed to N. Serenity Hill Circle.
5. The following items shall be revised on the final plat:
 - A. Label the Storm Drainage Easements 'private', except those maintained by NCDOT.
 - B. Number open spaces
 - C. Show vicinity map
 - D. Word floodplain note to state that Phase 6 North does not contain any floodable area.
 - E. Number stormwater pond

VIII. ZONING AND ORDINANCE AMENDMENTS:

Items from August 20, 2012 Public Hearing:

1. Request by IS Development Company, LLC for a revision to an existing conditional use permit for Cole Place on parcel #65804 to remove and transfer 3.22 acres from the existing CUP to an adjacent parcel and transfer the remainder of the residual property subject to the existing CUP to the Townhomes at Cole Place Owners Association, Inc.

Ms. Birchett reviewed the agenda notes and required five (5) findings for this request. She referenced an e-mail received today from Mark Martin (a home owner in Cole Place) stating various concerns (specifically regarding stormwater pond revisions). A copy of this e-mail is filed in the Planning Department.

Condition added:

Ms. Birchett stated that staff has added the following condition to their recommendation:

1. Owner/Applicant shall provide documentation from engineer to validate that the stormwater system was installed per requirement in condition #3 of the 12-18-2006 approval.

Greg Isenhour, applicant, was present. Mr. Isenhour had no response to the above added condition.

Some specifics discussed by the Board were:

- why the open space was not turned over to the HOA when the development was completed;
- statutes covering covenants requires a developer to turn over open space once the project is 100% complete;
- are all legal easements in place for access to the wastewater treatment plant located on an adjacent tract;
- approval of this request would create a separation between the WWTP (owned and maintained by Aqua NC) property and the Cole Place open space;
- a deeded utility easement across Mr. Isenhour's land (which will be recombined to an adjacent tract later) may be needed to retain access to the plant;
- previous conditions on original CUP that the applicant provide certification that the stormwater pond was installed to meet the 2 yr/24 hour storm event was not submitted as noted in tonight's agenda notes; and
- that a condition be placed on this approval requiring that documentation be provided from an engineer to validate the system was installed per the requirement in Condition No. 3 of the 12-18-2006 approval.

Mr. Isenhour and staff addressed the above. Mr. Isenhour stated there was still land available that he had development rights for and had hoped to expand but the economy fell and he couldn't move forward.

Motion to approve

Mr. Wilson made a motion; seconded by Ms. Kelly to approve the request as submitted and as recommended by staff with the condition included by staff addressed above that states:

1. Owner/Applicant shall provide documentation from engineer to validate that the stormwater system was installed per requirement in condition #3 of the 12-18-2006 approval.

Discussion followed. Mr. Elza stated that he would be voting 'no' on this motion because he does not believe that finding #5 and the easement have been met. There was no further discussion and the motion passed 7-2 with all Board members present voting in favor of the motion; except Mr. Elza and Mr. Copeland who voted against.

2. Request by Walter Lewis to rezone approximately 3.415 acres, parcel #17717, located on Beaver Creek Road, New Hope Township, from Residential (R1) to Conditional Neighborhood Business Zoning District (CZ-NB) to construct a RV and Boat Storage facility.

Ms. Birchett noted that this is the first application for Board review of the new conditional zoning process, i.e., legislative, no longer quasi-judicial.

Ms. Birchett reviewed the agenda notes for this rezoning request and the four (4) items listed in the Zoning Ordinance and noted in tonight's agenda notes that must be addressed by the applicant. She stated that staff recommends approval of the request as submitted with the eight (8) conditions listed in tonight's agenda notes; that should the Board recommend approval, a consistency statement on how this request complies with the Land Conservation and Development Plan should be stated and/or listed; and that staff would incorporate that statement into the recommendation to the Board of Commissioners.

Walter Lewis, applicant was present. Mr. Lewis stated that he has been looking for an opportunity and an area for expansion which led to this proposed site; that Jerry Turner designed the first location and is also doing the design and planning for this site.

Jerry Turner, Jerry Turner and Associates, Inc. was present representing the applicant.

Some specifics discussed by the Board were:

- the change the applicant agreed to regarding the color of the building and the added vegetation along the front perimeter was acceptable
- request consistent with activity in the Jordan Lake recreation area
- no other changes to the site plan recommended

Consistency Statement

Board members discussed the 'consistency statement'. Mr. Copeland offered language that states, "This facility meets our ideas that are consistent with the plan". Ms. Sanyal was concerned about landowner Suzanne Dixon's comments voiced at the recent public hearing regarding issues that 1) strangers would be using the facility, 2) additional traffic, and 3) expectation that the area would remain residential.

Motion to approve:

Mr. Copeland made a motion to recommend approval of the request as submitted and as recommended by staff. Mr. Wilson seconded the motion. There was no further discussion and the motion passed 8-1 with all Board members present voting in favor of the motion; except Mr. Elza who voted against. Mr. Elza stated that the three (3) acres in the middle of this residential area would normally be held to be a spot zone by the court; that boat traffic was discussed earlier tonight; and that there are ameliorating circumstances relative to this proposal.

The eight (8) conditions are as follows:

Site Specific Conditions

1. The recommendations of the Chatham County Appearance Commission shall be followed and implemented by the end of the next optimal planting season following the issuance of the building permit. This includes but is not limited to the extra planting area proposed by the applicant and the change in planting material, the change in the color of the building from beige to green to match the roof, and all other items as stated in the attached, approved minutes. (Attachment A) It shall be the applicant's responsibility to ensure the survival and maintenance of all landscaping required. Inspections will be conducted by planning staff and/or the CCAC as needed to ensure compliance.

Standard Site Conditions

2. The application, standards and adopted regulations of the applicable ordinances and policies, and the 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.
3. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Erosion & Sedimentation Control, Environmental Health Division, Stormwater 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.
4. A Certificate of Occupancy shall be obtained within two years of the date of this approval unless other approval/s has been given for an extension, or the conditional use permit becomes null and void.

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 compliance 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.

IX. NEW BUSINESS:

1. Review and Comment on Future Transportation Alternatives in the Durham-Chapel Hill-Carrboro Metropolitan Planning Organization Area.
The Durham-Chapel Hill-Carrboro Metropolitan Planning Organization (MPO) programs state and federal transportation projects in the northeast portion of Chatham County. The MPO is reviewing different alternatives for meeting future transportation needs and invites citizens to participate. The public comment period will be from Friday, August 17, 2012 through Wednesday, October 10, 2012.

Mr. Howell presented a PowerPoint presentation on different alternatives for meeting future transportation needs.

X. PLANNING DIRECTOR'S REPORTS:

1. Minor Subdivisions / Exempt Maps

Mr. Sullivan stated that an updated spreadsheet was included in tonight's agenda packet listing minor subdivisions approved by staff; and that this data now includes the number of exempt maps also reviewed by staff.

2. Consistency Statement

Mr. Sullivan stated that the 2005 Legislation states that the Planning Board has to make a consistency statement (not reviewable by the courts) and that the Board of Commissioners has to adopt one; that staff has in the past addressed this issue in the resolution and/or ordinances adopted by the Commissioners by including a consistency statement; that another jurisdiction was sued over how they actually adopted the consistency statement; that the court was not concerned in the actual statement substance but rather the procedural process; and that this is why staff is reviewing the consistency statement more closely.

3. Rehabilitation Grants

Mr. Sullivan stated that the Planning Department now has two rehabilitation grants that are open for housing rehabilitation assistance; that one of the programs is for urgent repair (up to \$5400 on a home, i.e., roof, heating and air

system); that the other program is for single family rehabilitation (up to \$45,000 rehabilitation on an entire home); that the grants are geared to people with moderate or low incomes, the elderly, and/or residents with disabilities; and that applications are available in the Planning office with a deadline of October 1, 2012 for application submittal.

4. Update about Planning Department staff changes

Mr. Sullivan stated that at the beginning of our current budget year (July 1, 2012) there were eight (8) Planning Department positions; that the Commissioners eliminated our Zoning Enforcement Officer position as part of our current budget year. Some other future changes were announced as follows:

- Kay Everage, Clerk to the Board - Ms. Everage stated that she would be retiring November 30, 2012.
- Kimberly Tyson, Administrative Support Specialist II - Mr. Sullivan stated that Ms. Tyson would be taking over Ms. Everage's position.
- Benjamin Howell, Senior Planner - Mr. Howell stated that his last day with Chatham County would be September 28, 2012; that he has taken a job with the Town of Morrisville and would begin work with them on October 1, 2012.
- Melissa Guilbeau, Senior Planner - Mr. Sullivan stated that this is a three-fourth (3/4) time position; that Ms. Guilbeau staffed the Affordable Housing Advisory Committee, the Transportation Advisory Committee, and was responsible for the two grants addressed above; and that Ms. Guilbeau's last day would be this Friday, September 14, 2012.

Mr. Sullivan stated that plans are to transfer the front counter position (currently staffed by Ms. Tyson) to Central Permitting as part of streamlining and looking at better ways to handle the permitting front counter efforts; that this would drop a position out of the Planning Department budget; that combining some responsibilities of positions currently staffed by Ms. Guilbeau and Mr. Howell is being reviewed; and that positions in the Planning Department would be down from a staff of eight (8) to only five (5).

5. Budget update

Mr. Sullivan stated that the budget cycle seems endless; that the Manager's office is kicking off efforts for the next budget year that starts July 1, 2013; and that he doesn't anticipate any big changes for the Planning Department other than reduced staffing. Mr. Sullivan addressed current Planning Department Advisory Boards, i.e., Appearance Commission, Transportation, Affordable Housing.

XI. BOARD MEMBER ITEMS:

1. *Chatham County Planning Board Rules of Procedure*

Chair Ernst stated that this discussion is a continuation from August 7, 2012 Planning Board meeting regarding attendance and a possible recommendation to the Board of Commissioners; that he has attempted (with no reply) to contact Kathryn Butler; that Commissioner Bock, Mr. Sullivan, and some Planning Board members have also made attempts to get in touch with Ms. Butler; and that under the 'Planning Board Rules of Procedure' the Board could recommend that the member be removed and replaced by someone willing to attend meetings and provide input.

Motion to recommend removal of member from Board:

Following discussion, Chair Ernst made a motion; seconded by Ms. Kelly to recommend to the Board of Commissioners, based on the attempts that have been made and lack of response, to remove Kathryn Butler from the Planning Board; and ask that the Board of Commissioners replace this position as expeditiously as possible. It was noted that Ms. Butler has missed the last 6 meetings which includes tonight's Planning Board meeting. There was no further discussion and the motion passed unanimously (9 members). Chair Ernst added to include with this recommendation to the Commissioners that we (the Planning Board) offer this with regret.

XII. ADJOURNMENT: There being no further business, the meeting adjourned at 9:04 P.M.

_____/_____
Karl Ernst, Chair / Date

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