

Chatham County Planning Board

Minutes

May 7, 2013



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
Tom Glendinning
Mike Grigg
Donna Kelly
Deepa Sanyal

Absent:

Cecil Wilson

Planning Department:

Jason Sullivan, Planning Director
Lynn Richardson, Subdivision Administrator
Angela Birchett, Zoning Administrator
Kimberly Tyson, Clerk to the Board
Jep Rose, County Attorney

I. INVOCATION AND PLEDGE OF ALLEGIANCE:

Mr. Grigg delivered the invocation and afterwards the Chairman 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.

III. DETERMINATION OF QUORUM:

The clerk stated that a quorum was present to begin the meeting (9 members).

IV. APPROVAL OF AGENDA:

See Item V. below.

V. APPROVAL OF CONSENT AGENDA:

Minutes: Consideration of a request of approval of the April 2, 2013 Planning Board minutes.

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

VI. PUBLIC INPUT SESSION: Fifteen-minute time of public input for issues not on agenda. Speakers limited to three minutes each. Speakers limited to three (3) minutes each.

Meredith Weiss: 181 Tobacco Farm Way, Chapel Hill. Ms. Weiss expressed some concerns that she and other Briar Chapel residents have. Ms. Weiss stated she and the other residents love Briar Chapel and wanted the support of the Planning Board to make sure Briar Chapel becomes the concept the residents bought into.

- A green walk-able planned community with community building amenities
- A walk-able village center

Residents are willing to work with Newland Communities, the developer, to make sure Briar Chapel doesn't become an overcrowded subdivision.

Kathie Young: 107 Saxapahaw Run, Chapel Hill. Ms. Young agrees with Ms. Weiss' previous statements and added they would like the developer to build the roads and give commercial zoning or mix zoning on ten lots across from Margret B. Pollard Middle School. Ms. Young suggested that Newland Communities market the ten (10) commercial lots for eighteen months to attract small retail stores. After eighteen (18) months and the commercial lots or mix use lots haven't sold, then the residents and developer should come together for an equitable solution.

Attorney Nick Robinson: 128 Hillsboro Street, Pittsboro. Mr. Robinson, the attorney for Briar Chapel, stated they are aware of the issues and will be meeting with Briar Chapel residents the following week.

Denise Kirk: 44 N. Serenity Circle, Chapel Hill. Ms. Kirk and other residents have noticed a change in the size of the neighborhood parks. She stated the parks are smaller than what's shown in the informational materials and wanted to know if the amphitheater that's shown on the maps will be built. Ms. Kirk asked the Planning Board to help assure that Briar Chapel becomes the concept they all bought into, a green walk-able planned community with a village center and community building amenities.

*The handout that Briar Chapel's residents gave to Chatham County Planning Board members is on file with the Chatham County Planning Board May 7, 2013 minutes and may be seen with that file.

VII. SUBDIVISIONS:

1. Request by Sears Design Group, P. A. on behalf of Fitch Creations, Inc. for subdivision preliminary plat review of Fearington P.U.D. – Section X, Area "K": Rutherford Close, consisting of 12 townhouse lots on 2.85 acres, located off E. Camden, S. R. 1812, Williams Township, parcel #18998.

Ms. Richardson reviewed the agenda notes for preliminary plat review of Section X, Area "K": Rutherford Close and stated Section X is the final section of Fearington to be developed. Ms. Richardson stated that during the sketch review there were three triplexes that consisted of nine units and the current submission has twelve townhouse units and the three additional lots will be reduced elsewhere in the plans. Chris Hopper, a former employee of Chatham County Environmental Quality Department, had performed a stream evaluation and a 50' buffer will need to be placed on the perennial stream; the stream falls under the county 1994 Watershed Rules. Bush Creek will be the only water feature with a 100' buffer, the other intermittent streams and perennial streams will have a 50' buffer and a 25' buffer around any wetlands (not required of the 1994 Watershed Rules). The other

permit approvals have been received and can be found on Chatham County Planning Department website. Emergency Operations has approved the road names for Rutherford Close. Staff recommends approval of the request.

R.B. Fitch, developer, was present for any questions.

Board discussion followed.

Motion to approve:

Mr. Glendinning made a motion; seconded by Mr. Grigg to approve the preliminary plat for Fearrington P.U.D. – Section X, Area “K”: Rutherford Close as submitted by staff. No further discussion and motion passed unanimously (9 members).

2. Request by Kevin Graham, Vice President, Operations, on behalf of NNP Briar Chapel, LLC for subdivision preliminary plat approval of Briar Chapel, Phase 7, consisting of 166 lots on 53.54 acres, located off S. R. 1528 Andrews Store Road, S. R. 1526, Parker Herndon Road, and Great Ridge Parkway, Baldwin Township, parcel #87090 and #89623.

Ms. Richardson briefly reviewed the agenda notes for Briar Chapel, Phase 7 preliminary plat approval. The interior roads will be public and the alleyways will be private. A cemetery and a tobacco barn are located in the Phase 7 area. The cemetery will be protected by a 25’ buffer and the tobacco barn is not required to be protected. Briar Chapel will contact Chatham County Historical Society to see if they would like to review the tobacco barn. Emergency Operations has approved the road names. North Chatham Fire Department reviewed the plans and had some concerns about the alleyways. If there were a car or garage fire they would have difficulties reaching the back of the unit where the fire would possibly be located. The fire department also expressed concerns that this area is near a school and there may be traffic back-up that could add time to responding. Additional 171 parking spaces are provided in Phase 7. Staff recommends approval of road names (Juneberry Drive, Kuralt View, West Chinquapin Path, East Chinquapin Path, Tin Pan Alley, Gameland Circle, Old Piedmont Circle, Overcup Trail, Reedy Fork Trail, Skipperling Street, Sachem Lane, Longtail Court, Nighthawk Trail, Barn Swallow Bend, Chapelton Court, Salt Cedar Lane, Sawtooth Road, and Artifact Alley) and recommends approval of the request.

Lee Bowman, Project Manager and Chris Seamester, PLA, McKim and Creed, and Attorney Nick Robinson were present for any questions.

Mr. Elza asked what the developer’s intentions were for the tobacco barn? Mr. Bowman replied the plans are currently undecided and are under evaluation, possibly preserving the structure or recycling the wood. Mr. Elza stated he believes the developer should meet with the Home Owners Association (HOA) prior to final plat submittal regarding demolition of the tobacco barn or preserving the barn.

Mr. Glendinning wanted to know if there’s an issue with the size of the fire trucks not able to travel through the alleyways. Ms. Richardson stated it was a concern of the fire department. Mr. Sullivan, Chatham County Planning Director, said speaking with the fire department it may be that they will need to purchase a smaller truck for the alleyways of Briar Chapel. Mr. Seamster stated if a fire occurs the fire could be fought from the public street because the fire department has sufficient length in their hoses that will reach the rear of the lots.

Mr. Bienvenue had concerns of the on-street parking; who is responsible for enforcing parking restrictions. Mr. Bowman replied that the HOA is responsible for enforcement for parking.

Motion to approve:

Mr. Elza made a motion; seconded by Mr. Copeland to approve the preliminary plat for Briar Chapel Phase 7 as submitted by staff with one (1) condition:

1. The developer shall meet with the homeowners association prior to final plat submittal regarding either the demolition or the preservation of the tobacco barn.

No further discussion and the motion passed with by vote 8-1 with Glendinning voting against.

3. Request by Eric Manturuk, John R. McAdams Co, on behalf of NNP Briar Chapel, LLC for final plat approval of Briar Chapel Phase 6 North, consisting of 119 lots on 36.58 acres, located off S. R. 1528, Andrews Store Road, S. R. 1526, Parker Herndon Road and Great Ridge Parkway, Baldwin Township, parcel #87809.

Ms. Richardson reviewed the agenda notes for the final plat approval of Briar Chapel Phase 6 North. Ms. Richardson stated the preliminary plat had 115 lots on 30 acres and currently 4 lots have been added but the overall lot count will not increase. There were preconditions of the preliminary plat approval, condition one is to place on file with Chatham County Register of Deeds a deed restriction of the perimeter buffer stating it's a protected area, who's to protect it, and how it's to be maintain. Staff recommends approval for final plat with conditions.

A few of Briar Chapel residents were present with concerns that the final plat didn't match preliminary plat in that the amount of common/park area has been reduced.

Attorney Nick Robinson and Lee Bowman, Project Manager were present for any questions.

Board discussion followed.

Motion to approve:

Mr. Glendinning a made motion; seconded by Mr. Grigg to approve the final plat for Briar Chapel Phase 6 North as submitted by staff with two (2) conditions.

1. The final plat can't be recorded until the county attorney has approved the financial guarantee.
2. The final plat can't be recorded until the document protecting the perimeters buffers is prepared, with review and approval by the county attorney. The document shall be recorded in the Office of the Register of Deeds.

No further discussion and the motion passed unanimously (9 members present).

Five minute recess

VIII. ZONING AND ORDINANCE AMENDMENTS:

Legislative Request:

4. A request by Brantley Powell on behalf of Polk's Village, Inc. to amend the Chatham County Zoning Ordinance, Section 10.13, Table of Permitted Uses, to add Congregate Care Facilities as a permitted use within the B-1 zoning district.

Ms. Birchett briefly reviewed the agenda notes to amend the Chatham County Zoning Ordinance, Section 10.13, to add Congregate Care Facilities as a permitted use within a B-1 zoning area. This was presented to Chatham County Board of Commissioners' public hearing meeting on April 15, 2013. Ms. Birchett stated there were no additional discussions after planning staff presented the item to the Board of Commissioners for input and review. Staff recommends adding the use of Congregate Care Facility as a permitted use within Business-1 (B-1), Neighborhood Business (NB), Community Business (CB), and Regional Business (RB) zoning districts.

Board discussion followed.

Motion to approve:

Mr. Copeland made a motion; seconded by Mr. Glendinning to add the Congregate Care Facilities to B-1, NB, CB, and RB zoning districts with staff recommendations.

Motion passed by vote 8-1 (Sanyal voted against).

Consistency Statement: The addition of a congregate care facility in the B-1, NB, CB, and RB districts is consistent with the land development plans of Chatham County.

Mr. Elza made a motion; seconded by Mr. Glendinning with Consistency Statement stated above by vote of 7-1 (Sanyal voted against and 1 member left early)

Quasi-Judicial Request:

5. A request from Brantley Powell on behalf of Polk's Village, Inc., to revise the approved conditional use permit on Parcel Nos. 2407 and 89420 thru 89429, located at 10677 US 15-501 N, to modify the site plan and uses allowed on the site to include Congregate Care Facility, Hospital, Health and Welfare Centers, Nursing Homes, and Daycare Center with a revised listing of "non-approved" uses for the project.

Ms. Birchett reviewed the agenda notes to revise the approved conditional use permit. Ms. Birchett explained there was some uniqueness in this request. This item was presented to the Board of Commissioners on April 15, 2013 public hearing meeting; new information was requested by the Board of Commissioners for the public hearing held on May 20, 2013. Ms. Birchett stated, currently on the list of permitted uses there's an exclusion of food stores larger than 12000 sq. ft., this item will return to public hearing on May 20, 2013 to increase food store size to 30,000 sq. ft. Second item to return to May 20, 2013 public hearing was to increase building square footage to 47,000 (currently 40,000 sq. ft.) for the Congregate Care Facility. The third item Ms. Birchett presented was the overall development. Overall development can't be more than 125,000 sq. ft. and the applicant would like to increase the amount to 129,000 sq. ft. Ms.

Birchett stated Mr. Hooker testified at the April 15, 2013 Board of Commissioners' public hearing that there's a need for a 91 bed assisted living facility that would also house an Alzheimer's unit. In order for these types of facilities to locate in an area, the State of North Carolina must approve a Certificate of Need which has been done per Mr. Hooker. Mr. Hooker stated their company is a "for profit" organization that would add to Chatham County tax base. Mr. Birch, attorney for the applicant, testified at the public hearing that the applicant was approached by a potential tenant requesting to locate in his development. In an effort to meet that demand, he requested this revision to the existing permit and site plan. No other changes to footprint or perimeter, everything will remain as previously submitted. Staff recommends approval of revision.

Mr. Michael Birch, attorney for Brantley Powell was present for any questions.

Board discussion followed.

Mr. Glendinning made a motion to approve with staff recommendations with the exception of conditions 2, 5, and 11; motion failed for lack of second.

Motion to approve:

Mr. Copeland made a motion; seconded by Mr. Glendinning to approve revision as submitted by staff with the following conditions.

1. The following uses **are not permitted uses** within this development:

Amusement enterprises such as a pool, bowling, roller rink when housed entirely within a permanent structure	Automobile repair garages
Automobile sales and service	Automobile service stations (as defined in the zoning ordinance)
Bait and tackle shops	Boat, trailer, and other utility vehicle sales and service
Bus passenger stations	Cabinet shops (sales & service allowed but excludes manufacturing)
Churches and other places of worship	Feed, seed, fertilizer retail sales
Fire stations & emergency medical service facilities	Food stores, retail (allowed up to 30,000 sq ft maximum size)
Fur storage	Funeral homes, embalming including crematoria
Horticulture, specialized	Furrier, retail sales
Landscaping & grading business	Hotels, motels and inns

Lock and gunsmith	Leather goods (sales & service allowed but excludes manufacturing)
Mobile homes sales and service	Lodges, fraternal & social organization clubs
Open air sales & service of accessory buildings & gazeboes and like free-standing structures	Motorcycle sales and service
Public & private schools, training & conference centers	Pawnshops and secondhand stores
Radio & television stations and their towers when the towers are located on the same site with the station	Public & private recreation camps and grounds with a minimum lot area of 10 acres as further defined in the zoning ordinance
Swimming pool & related items sales & service	Self-storage facility/mini-warehouse storage facility with related retail and services (i.e. moving truck rental)

2. Each building shall be constructed in a manner that would achieve acknowledgement of LEED level construction. A LEED certificate is not required.
3. The Congregate Care Facility shall not exceed 47,000 square feet as requested by the applicant. All other building sizes shall follow Condition No. 10 as previously approved of no larger than 40,000 sq. ft.
4. The site plan dated March 22, 2013 shall be considered the existing approved plan. All requirements and agreed upon conditions regarding the addition of a five (5) foot wide sidewalk from Polk's Landing Road across from Holly Ridge Road into the development to allow for pedestrian connectivity that also includes bicycle/disability access ramps; the addition of four (4) bike racks installed at central points throughout the development; the modified evergreen undisturbed margin along Polk's Landing Road bordering the development which allows for selective clearing and re-vegetation with new plantings; the addition of a sign on Polk's Landing Road at the first entrance into the development stating "shopping center entrance only," and that entrance should be wide enough to accommodate a tractor-trailer, shall remain valid and required.
5. The recommendations of the Chatham County Appearance Commission (CCAC) for landscaping and screening of dumpsters shall remain in effect as originally approved. The CCAC and the Planning Division may conduct yearly inspections to ensure design and intent are maintained and may advise on additions or changes be made to the site whether to the developers expense or some other entity.

6. The interior road leading through the development from US 15-501 South connecting to Polk's Landing Road shall be installed and maintained in its entirety before the certificate of occupancy for the first structure is approved and prior to Polk's Landing Road being converted to right out only at US 15-501.
7. Setbacks from Cub Creek shall be 100 feet on each side for buffers and the stormwater management pond. A new storm water management plan shall be submitted to the Planning/Zoning Division prior to issuance of the first building permit. The design shall at a minimum as specified in Section 8.5.4 Storm Water Runoff in the original application.
8. The site plan shall be developed as approved on the site plan dated March 22, 2013. A reduction in one building's square footage may be transferred to another building in the development with no one building exceeding 40,000 square feet.

Standard Site and Permit Conditions:

9. Signage, parking, and lighting shall conform to the current regulations in the Chatham County Zoning Ordinance (December 2008 version).
10. All parts of the application, notes, 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.
11. All required local, state, or federal permits (i.e. North Carolina Department of Transportation(NCDOT) commercial driveway permits, North Carolina Division of Water Quality (NCDWQ), Chatham County Erosion & Sedimentation Control, Environmental Health Division, Stormwater Management, etc.) shall be obtained, if required, and copies submitted to the Planning Department prior to the issuance of the first building permit and as needed throughout the remainder of the development of the project.

Standard Administrative Conditions:

12. Appeal - The County shall be under no obligation to defend any action, cause of action, claim, or appeal involving the decision taken herein. In the event a response is authorized by the County concerning this resolution, or any action to enforce the provisions hereof, the applicant, its successors or assigns shall indemnify and hold the County harmless from all loss, cost or expense, including reasonable attorneys fees, incurred in connection with the defense of or response to any and all known or unknown actions, causes of action, claims, demands, damages, costs, loss, expenses, compensation, and all consequential damages on account of or resulting from this decision.
13. 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.

14. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditions listed above.
15. Non-Severability - If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
16. 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.

No further discussion and the motion passed by vote of 7-0 (Ernst and Sanyal abstain).

IX. PLANNING LEGISLATION:

1. Discussion with the County Attorney about recent planning legislation and implications for the Planning Board.
 Planning Board and County Attorney discussed Consistency Statement requirements and Public Records Policy.

X. NEW BUSINESS:

No reports were submitted.

XI. PLANNING DIRECTOR'S REPORTS:

1. Minor Subdivisions/Exempt Maps
 Mr. Sullivan referred to the report that was included in the packet.
2. Board of Commissioners Public Hearing – May 6 and May 20
3. Board of Commissioners discussed on May 6, 2013 of a revision to the Temporary Sign Ordinance and Communication Tower Ordinance staff will be working on these items.

XII. BOARD MEMBER ITEMS:

Board discussion followed.

XIII. ADJOURMENT:

There being no further business, the meeting adjourned at 8:39 p.m.

_____/_____
 Karl Ernst, Chair / Date

Attest: _____/_____
 Kimberly Tyson, Clerk to the Board / Date