

Chatham County Planning Board Minutes October 1, 2013



The Chatham County Planning Board met in regular session on the above date in the Agriculture Building Auditorium, Pittsboro, North Carolina.

Members present were as follows:

Present:

Karl Ernst, Chairman
B. J. Copeland
Philip Bienvenue
Philip Canterbury
Tom Glendinning
Mike Grigg
Donna Kelly
Cecil Wilson
Cathy Wright

Absent:

James Elza

Planning Department:

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

I. INVOCATION AND PLEDGE OF ALLEGIANCE:

Mr. Copeland 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 6:32 p.m.

III. DETERMINATION OF QUORUM:

The clerk stated that a quorum was present to begin the meeting (8 members 1 member in late).

IV. APPROVAL OF AGENDA:

See Item V. below.

V. APPROVAL OF CONSENT AGENDA:

Minutes: Consideration of a request of approval of the September 10, 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 (3) minutes each.

There were no requests to speak at this time.

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 “A”: Burke Place, consisting of 12 lots on 12.38 acres, located off SR-1817, Millcroft, Williams Township, Parcel #18998.

Ms. Richardson reviewed the notes for preliminary plat review of Fearington, Section X, Area “A”. Ms. Richardson stated Area “A” is based on the 2012 approved sketch plan. Fearington P.U.D. is reviewed under pre-2008 Subdivision Regulations and 1994 Watershed Ordinance; however, the project is subject to the current Soil Erosion and Sedimentation Control Ordinance. Ms. Richardson stated that Mr. Fitch agreed to place an additional 50’ buffer along Bush Creek giving it a 100’ buffer; that Area “A” consist of twelve single family lots on 12.38 acres; and the name “Burke Place” has been approved by the Chatham County Emergency Operation Office for submittal to the Board of Commissioners. Alan Keith, P.E. Diehl and Phillips, P.A. has certified that the Waste Water Treatment Plant (WWTP) has sufficient capacity to serve the lots. No historical structures are within this area to be developed. The Planning Department recommended approval of the name “Burke Place” and approval of the request for preliminary plat approval of Fearington P.U.D. – Section X, Area “A” as submitted.

Mr. Fitch, developer, was present for questions.

Board discussion followed.

Motion to approve:

Mr. Copeland made a motion; seconded by Mr. Wilson to approve the request as submitted with the Planning Department recommendations.

No further discussion and motion passed unanimously (8 members).

2. Request by Fitch Creations, Inc. for subdivision final plat approval of Rutherford Close at Fearington, Section X, Area “K”, consisting of 12 lots on 3.3 acres, located off SR-1813, East Camden, Williams Township, Parcel #18998.

Ms. Richardson reviewed the notes for final plat approval of Rutherford Close, Fearington, Section X, Area “K”. Area “K” will have twelve townhouse units on a private road. The private road has one access off SR-1813, East Camden, with an emergency vehicle access onto East Camden on the other end. Preliminary plat approval was granted June 8, 2013. Under Pre-2008 Subdivision Regulations, a developer may request final plat approval with a financial guarantee after 40% of the required infrastructure has been installed and the health and safety of the public will not be endangered. The developer has currently installed 95% of the required infrastructure.

The developer is requesting final plat approval with a financial guarantee for completion of erosion control measures. The Planning Department recommends granting final plat approval of Rutherford Close at Fearington, Section X, Area "K" with the request for a financial guarantee and with the following condition:

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

Mr. Fitch, developer, and Alan Keith, P.E., were present to answer questions. Mr. Keith explained that the emergency vehicle access is a series of bollards with a collapsible middle and that this design was discussed with and approved by the North Chatham Fire Department.

Motion to approve:

Mr. Grigg made a motion; seconded by Mr. Canterbury to approve the request as submitted for final plat approval of Rutherford Close at Fearington, Section X, Area "K" with a condition as follow:

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

No further discussion and the motion passed unanimously (8 members).

3. Request by Meritage Homes for subdivision final plat approval of The Legacy, Phase 2, consisting of 54 lots on 82.52 acres, located off SR-1716, Big Woods Road, Williams and New Hope Townships, Parcel #89438.

Ms. Richardson reviewed the agenda notes for final plat approval of The Legacy, Phase 2. The subdivision was approved by the Board of County Commissioners in 2004 with modifications to the plan in 2005. The project was approved for 463 lots on 626 acres with an amenity center. Phase 1 received final plat approval in 2005 for 105 lots. Phase 2 and Phase 3 received preliminary plat approval in 2006 with 54 lots for Phase 2 and 60 lots for Phase 3. In 2011 the developer submitted a request to the Board of County Commissioners to relinquish the final plat approvals for Phase 2 and Phase 3 (undeveloped) and to recombine the lots with the remaining undeveloped portion of the property into one parcel of land and to allow Phases Two and Three to revert to their approved preliminary plat status as of November 20, 2006. The county retained the recreation exaction fees and water availability fees that were paid previously with those fees to be credited toward any similar fees incurred by the developer in future submittals until December 31, 2015. The overall approval of The Legacy will expire December 31, 2015. Phase 2 has the same number of lots and same road layout as previously approved. The developer is requesting final plat approval with a financial guarantee. Under Pre-2008 Subdivision Regulations, a developer may request final plat approval with a financial guarantee after 40% of the required infrastructure has been installed and the health and safety of the public will not be endangered. At the time of application submission, the developer had 52% of the required infrastructure completed.

The county attorney has approved the form of financial guarantee and has approved the contract. Leonard McBryde, Utilities Director, questioned the location of the utility easement shown on the final plat in relation to the location of the installation of the water line and asked for a revised plan. Planning Department recommends granting approval of the final plat for The Legacy, Phase 2 with two conditions:

1. A revised utility plan shall be furnished to the Chatham County Utilities Department prior to final plat recordation showing the correct location of the utility easement / water line installation to the adjacent property of The Preserve.
2. The mylar copy of the final plat shall be revised per recommendation of staff, i.e. take off approval certificate for Planning Department, label roadway 'private', show road name Covered Bridge Trail, and add parcel #19331.

Mark Ashness, P.E., was present and spoke briefly.

Board discussion followed.

Motion to approve:

Ms. Wright made a motion; seconded by Ms. Kelly to approve the request as submitted for final plat approval of The Legacy, Phase 2 with two conditions as follow:

1. A revised utility plan shall be furnished to the Chatham County Utilities Department prior to final plat recordation showing the correct location of the utility easement / water line installation to the adjacent property of The Preserve.
2. The mylar copy of the final plat shall be revised per recommendation of staff, i.e. take off approval certificate for Planning Department, label roadway 'private', show road name Covered Bridge Trail, and add parcel #19331.

No further discussion and motion passed 8-0 (1 abstention-Glendinging)

VIII. Zoning and Ordinance Amendments

Legislative Request:

4. A request by American Tower Corporation and AT&T Mobility to rezone a portion of Parcel No. 85601, known as the Meacham Site, from R-2, Residential, to CD-IL, Light Industrial, to construct a new cell tower, located off Poythress Rd. The lease area will be approximately 0.29 acres of the 81 acre tract and is within the Baldwin Township.

Mr. Sullivan reviewed the agenda notes for American Tower Corporation and AT&T Mobility to rezone a portion of Meacham Site, parcel 85601, from R-2 to CD-IL to construct a cell tower. Public hearing was held on September 16, 2013 where nine (9) citizens spoke in favor of the cell tower and one (1) spoke in opposition. Concerns were real estate impact, aesthetics, emissions, and the alignment of the access driveway. One fax was received by staff in favor of the proposed tower, an email from a resident in proximity of the site who was in opposition of the proposed tower, and one phone call from a resident with concerns of the aesthetics, driveway location and watershed.

Gray Styers, attorney, representing the applicant, and who was also present at the Board of County Commissioners' meeting, was available to answer questions. Mr. Styers presented a report of a balloon test and a visual representation of the proposed tower height. David Smith, certified real estate appraiser, spoke on behalf of the applicant at the public hearing stating in his report that the proposed tower will not adversely affect property values in the general vicinity of the tower.

It is staff opinion that this request be approved with conditions.

Mr. Styers, attorney, was present for questions.

John Hausmann, 135 Glen Ridge Drive, spoke about his concerns with the driveway, landscaping, and height of tower.

Mr. Styers addressed Mr. Hausmann concerns about the driveway and agreed to plant additional evergreens along the tree line of either side of the entry driveway and asked that planting evergreens be added as a condition of the permit. Mr. Styers stated if the property was timbered they would landscape around the area in compliance with county regulations. Mr. Styers also requested that "from time to time" be deleted from the Standard Administrative Condition #1. His concern was that the county could interpret that to mean that an additional fee could be charged in the future after construction of the tower.

Board discussion followed.

Motion to approve:

Mr. Copeland made a motion; seconded by Mr. Grigg to approve request as submitted and the applicant to install additional evergreens, not to exceed eight (8), as proposed prior to receiving CO; if surround property is clear cut that landscaping will be placed in said areas; remove the language "established from time to time" in condition Standard Administrative Conditions item number one (1) Fees and the following conditions:

Site Specific Conditions

1. The cell tower shall be a monopole with a maximum height of no more than 199'.

Standard Site Conditions

1. 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.
2. 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.

3. 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:

1. 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.
2. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditions listed above.
3. Non-Severability - If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
4. 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 motion passed unanimously (9 members).

Quasi-Judicial Request:

5. A request by Strata Solar for a conditional use permit to locate a 5MW solar farm on Parcel No. 5767, on approximately 28.32 acres out of the 87.1 acre tract, located at 3905 Corinth Rd., Cape Fear Township.

Ms. Birchett reviewed the agenda notes for conditional use permit to locate a solar farm at 3905 Corinth Rd. Concerns were presented before and during the quasi-judicial public hearing held on September 16, 2013 and most concerns were answered. Some concerns/issues were, could the site expand, how are the panels discarded if they're no longer in use, and are there health concerns or noise. Staff and the attorney were able to answer some questions and expert witnesses that were present at the public hearing were available to provide additional information.

The project area will consist of 28.3 acres which includes a fifty foot (50') minimum perimeter setback from any property line.

The five (5) findings are supported:

Finding #1 may be supported: Chatham County Zoning Ordinance, Section 10.13 lists solar farms, greater than two (2) acres in size, as permitted with approval of a conditional use permit with specific standards outlined in Section 17.6. The filing of this application satisfies this finding.

Finding # 2 may be supported: Included in the application's supporting documentation received at the public hearing, a letter from the State of North Carolina Utilities Commission in Raleigh states "after careful consideration, the Commission finds good cause to approve the application and issue the certificate of public convenience and necessity for the proposed 4.975MW AC solar photovoltaic electric generating facility". The applicant is required by state law to report to the utilities commission who monitors the site on an annual basis.

Mr. Nick Szydlek states in his supporting documentation based on NCGS 62-2, Senate Bill 3, which became law in 2007, electric companies are required to purchase an increasing amount of renewable energy. This solar farm is being constructed under that policy and will be interconnected to the Duke Energy power grid.

The collected tax on the property, once the solar farm is in place, is expected to be approximately \$20,000 annually.

This will not be a "manned" facility once the installation is complete. Employment will be limited to the construction time of approximately three (3) months with 80-100 employees per testimony given at the public hearing.

Finding #3 may be supported: Concerns were raised by citizen input on matters noted under this finding. One matter of concern was noise. The applicant stated there is a "humming" noise that comes from the inverter that can be heard within 50 feet of the equipment. Other than this, they state there is no noise.

Traffic to and from the site will mainly be during the construction phase. The applicant anticipates approximately 50-60 vehicles per day for the three (3) month construction phase.

Based on the market analysis provided in the supporting documentation, the housing markets for sale and resale overall have not been adversely affected by having a solar farm in the vicinity or located on a neighboring tract. The project site has 12 parcels that adjoin or are adjacent. All are zoned as residential and most are listed as agricultural use. There is a brick plant within 1000 feet of the project site as well as other industrial uses within 2 miles.

Health concerns were another issue raised. Planning staff inquired with the Chatham County Environmental Health Division of the Health Department on whether or not there have been any reported health concerns or issues as a result of being in close proximity to a solar farm. The director stated there have been no such substantiated reports filed with them or the state on the matter. There is also no evidence on atmospheric changes as a result of any heat emanating from the solar panels themselves per testimony at the public hearing.

The applicants met with the Appearance Commission (CCAC) in July before submitting the application. The site plan landscaping was approved with recommended modifications. Those recommendations are part of conditions of approval listed below.

The site will also be enclosed by a six (6) foot high chain link fence that will also have approximately three (3) feet of barbed wire on top. This will aid in preventing vandalism and theft as well as damage to property by wildlife. Landscaping will be on the outer area of the fence lending no further screening to be applied.

There will be no hazardous materials used or stored on the site. The applicant states in the materials there are no pending environmental impacts associated with solar panels.

Finding # 4 may be supported: The applicant believes this project is in harmony with the Land Conservation and Development Plan through form and spirit by the sharing of benefits and burdens. This site will provide alternative energy to the local power company. It is also located on a tract that has a significant tree buffer that will remain making it virtually blocked from view therefore preserving the rural character of the site.

The use ensures the long-term quality of surface water resources. There is floodable area to the rear of this tract. There will be no development activity within this area and there is another 50 foot setback buffer from the noted streams and/or wetland areas. Should the solar farm no longer be in operation, the zoning ordinance requires the facility to be dismantled at the owner's (solar farm owner) expense. The land can then be returned to agricultural use if desired.

The Environmental Quality director has reviewed the Environmental Impact Assessment (EIA) and required a revision to the site plan to reflect the total impervious surface areas to be installed as well as any stormwater measures that may be needed. All of this helps to ensure the protection ground and surface waters.

Finding #5 may be supported: There are no public utilities needed to serve this site except power. No wastewater is needed. The access road has been relocated on the revised plan to show the access point on the project tract. NCDOT will be issuing a commercial driveway permit.

The applicant has obtained the necessary approval from the US Army Corps of Engineers to cross a creek with the access road. The EQ director has also reviewed the impervious surface proposed. Solar panels are not considered impervious surface and the watershed classification is River Corridor (RC) which allows up to 12%.

Erosion and sedimentation control permits and storm water permits will be issued if required. Non-residential land disturbances 20,000 sq ft or higher trigger plan review and approval for all land disturbing activity. At this time it is not clear what the final area disturbance total will be.

The Planning Department recommends approval of the request.

Ms. Maryann Perkins, citizen who spoke at the public hearing, was present and had questions but was unable to ask them because they were not part of the quasi-judicial public hearing record .

Board discussion followed.

Motion to approve:

Mr. Wilson made a motion; seconded by Mr. Glendinning to approve as submitted with Planning Department recommendation and removal of the language in condition Site Specific Conditions item number one (1) “and/or the CCAC”, the removal of “established from time to time” in condition Standard Administrative Conditions item number five (5). The conditions are as follow:

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. It shall be the applicant’s responsibility to ensure the survival and maintenance of all landscaping required. Inspections will be conducted by planning staff 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.
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.

No further discussion and motion passes unanimously (9 members).

X. NEW BUSINESS:

No new business.

XI. PLANNING DIRECTOR'S REPORTS:

- 1. Minor Subdivisions / Exempt Maps
- 2. Board of Commissioners Public Hearing – October 21, 2013
Mr. Sullivan reminded board members of Board of Commissioners' public hearing meeting.

XII. BOARD MEMBER ITEMS:

- 1. Consideration of proposals presented by Mr. Glendinning regarding various planning items (continuance from September 10, 2013 meeting).

Mr. Bienvenue proposed to create a subcommittee to review the various items of Mr. Glendinning's presentation with the goal to present the items at the January 2014 Planning Board meeting. Chair Ernst agreed and formed the subcommittee with the following members.

Sub-committee members:

- Philip Bienvenue, Chair
- Donna Kelly
- Cathy Wright
- Tom Glendinning

Board discussion followed.

XIII. ADJOURNMENT:

There being no further business, the meeting adjourned at 7:52 p.m.

_____/_____
Karl Ernst, Chair / Date

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