

CHATHAM COUNTY PLANNING BOARD
MINUTES
September 6, 2005

The Chatham County Planning Board met in regular session on the above date in the auditorium of the Cooperative Extension Building in Pittsboro, North Carolina. A quorum was present to begin the meeting. The members present were as follows:

Present:

Charles Eliason, Chair
Jennifer Andrews
Angela Brown
Clyde Harris
Martin Mason
Mark McBee
Cecil Wilson

Absent:

Jeff Austin, Vice-Chair
Winifred Smith
Chris Walker

Planning Department:

Keith Megginson, Planning Director
Jason Sullivan, Planner
Lynn Richardson, Land Use Administrator II
Kay Everage, Secretary to the Board

- I. CALL TO ORDER – Chair: Chairman Eliason called the meeting to order at 7:20 p.m.

- II. APPROVAL OF AGENDA: Ms. Andrews made a motion; seconded by Ms. Brown to approve the agenda as submitted. The motion passed unanimously (6 Board members).

- III. CONSENT AGENDA: Mr. Wilson made a motion; seconded by Ms. Andrews to approve the consent agenda as submitted (items A. B., C., and D listed below). The motion passed unanimously (6 Board members).
 - A. Minutes:
Consideration of approval of minutes for August 2, 2005 Planning Board meeting.

 - B. Preliminary Approval:
 1. Request by Jeff Hunter on behalf of Colvard Farms, Development Co., LLC for subdivision preliminary approval of “Colvard Farms, Phase VIII” consisting of four (4) lots on approximately 4 acres, located off Hwy 751, Williams Township. Page 115
 2. Request by Ricky Spoon for subdivision preliminary approval of “Henry’s Ridge”, consisting of 40 lots on approximately 84 acres, located off SR-1823, Henry Webster Road, (U.S. 64 Service Road), New Hope Township.

- C. Preliminary and Final Approval:
1. Request by Ricky Spoon for subdivision preliminary and final approval of “Bobcat Point, Phase IV, Lots 119 – 126”, consisting of 8 lots on approximately 44 acres, located off SR-1558, Henderson-Tanyard Road and Poplar Forest Lane, Hadley Township.
- D. Final Approval:
1. Request by Mac Development for subdivision final approval of “Cedar Grove, Phase III”, consisting of five (5) lots on approximately 12 acres located off SR-1540, Jones Ferry Road, Baldwin Township.
 2. Request by H & A Properties for subdivision final approval of “Shambley Meadows, Phase II”, consisting of 11 lots on approximately 23 acres, located off SR-2167, Jay Shambley Road and SR-2165, Hickory Mt. - Hadley Mill Road, Hickory Mountain Township.

End Consent Agenda

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

Rich Hayes, soil scientist and Chatham County resident, asked Chairman Eliason to clarify rules for allowing citizen input during the Planning Board meeting outside the public input session. Mr. Hayes noted that during last month’s meeting it was mentioned that citizens could send written comments (i.e. E-mails) to the Planning Department and/or Planning Board prior to meetings.

Chairman Eliason stated that there are no requirements; that the process the Board follows is that priority is given to immediate and adjacent landowners to voice their concerns or support for a specific issue; that the general public is encouraged to send E-mails to the Planning Department staff for distribution to Planning Board members; that it is generally thought that people who do not live adjacent to the proposed project do not have an immediate need to address the applicant in particular to allow time for the Board to address specifics such as buffers, the proposed plan under consideration, & etc.; that people living away from the project may still have concerns regarding traffic impact, neighborhood, & etc. that are not always appropriate for the Board (as a technical review committee) to address; that content of E-mails received prior to a meeting informs the Board of various issues for concern; and that public hearings allow citizens a chance to voice concerns or support regarding proposed changes in County ordinances.

Mr. Hayes asked if there would be an opportunity for the public to have an input in tonight’s discussion regarding the watershed 10/70 Rule (other than sending E-mails). Chairman Eliason stated that the Planning Board would be discussing how to administer the Board’s ability to develop a recommendation to the Commissioners; that the Board would probably not entertain public comments

during the process of reviewing the technical aspects of the 10/70; and that the Board may open up an opportunity for public comments (when it's appropriate to hear concerns) as the Planning Board develops a recommendation for the Commissioners.

V. SKETCH, PRELIMINARY and FINAL APPROVAL:

A. Request by Lat Purser & Associates, Inc on behalf of ITAC 92, LLC for subdivision sketch, preliminary and final approval of "Chatham Downs", consisting two (2) lots on approximately 2 acres, located off US Hwy 15-501 N and SR-1721, Lystra Road, Williams Township.

Ms. Richardson reviewed the agenda notes for this request. She noted that the final plat would show the approximate location of the two cemeteries located on the parent tract along with pedestrian easement(s) for access (i.e. condition #2 added to staff's recommendation.)

Marsha L. Mayhew, was present representing the applicant.

Following discussion, Mr. Wilson made a motion; seconded by Ms. Andrews to grant approval of the request as submitted and as recommended by staff. Discussion followed.

Kathryn L. Conway, 187 Running Cedar Road, adjacent landowner, asked the following questions:

- explanation of the term, "pedestrian easement"
- if easements were planned for the other two lots, and
- usage for the lot not proposed for a bank.

Ms. Andrews stated that North Carolina Statute requires that cemeteries be provided access. Ms. Mayhew stated that the need for additional septic area was the reasoning for the recent expansion into this area; and that no fencing or structures were proposed. Ms. Richardson stated that access to these two lots would be by the main entrance into Chatham Downs; and that no additional entrances are proposed. Ms. Mayhew stated that it is currently unsure how the other lot would be utilized.

Clyde Harris arrived at this time [7:40 p.m.].

Board discussion followed. It was noted that the developer would be providing pedestrian access to the cemetery from their property and that "Running Cedar Lane" is not part of the access that would be provided.

Vote on motion:

At this time, Chairman Eliason restated the motion on the table (made by Mr. Wilson and seconded by Ms. Andrews) to grant sketch, preliminary and final approval of the plat entitled "Chatham Downs Shopping Center" as submitted with the following conditions:

1. The plat shall not be recorded until staff has received the following documents:
 - (a) Revised Operations Permits for the Collins and Oakley tracts from the Chatham County Health Department, Environmental Health Division.
 - (b) Recorded copy of the cross parking easement for Tracts Two and Three.
 - (c) Recorded copy of all utility easements as required by the Chatham County Health Department, Environmental Health Division.
2. The final plat shall show the approximate location of the two cemeteries located on the parent tract along with pedestrian easement(s) for access.

The motion passed 6-0-1 with all Board members present voting in favor of the motion except Mr. Harris who abstained due to his late arrival during discussion of this issue.

VI. FINAL APPROVAL:

- A. Request by Coffey Grounds, Inc. for subdivision final approval of "Valley Meadow" (formerly Midfield), consisting of 26 lots on 75 acres, located off SR-1532, Mann's Chapel Road, Baldwin Township.

Ms. Richardson reviewed the agenda notes for this request.

John Coffey and Mike Shachtman, applicants, were present.

Lunday Riggsbee, attorney, was present representing the applicant.

No adjacent landowners spoke.

Ms. Riggsbee addressed the pond that is partially located on lots 15 and 17. She stated that she has prepared a new pond maintenance agreement; that all parties have not signed the document; that landowners cannot be made to sign the agreement; that the dam is located on another property; that legally the dam should not have been built in such a way that the pond encroaches other property; and that language in staff's condition #3 that states, "and Restrictions for Pond Easement and Maintenance Agreement", cannot be done.

Chairman Eliason stated that some Planning Board members were not present when this subdivision was initially proposed; that at sketch and preliminary there were some adjoining property owners concerned about how the administration may occur as the project developed; and that the motion at that time was based on the level of discussion and participation by those immediate landowners. Ms. Andrews noted that the Penley's were present at that time and requested that the Board make the pond maintenance requirement. Chairman Eliason noted that he was unsure why the Penley's were not present tonight for follow-up. Ms. Riggsbee confirmed that the Penley's have been provided the pond maintenance agreement but have not signed the document.

Mr. McBee made a motion; seconded by Ms. Andrews to grant final plat approval of Valley Meadow as submitted and as recommended by the Planning Department. Discussion followed. Mr. McBee amended his motion to exclude language in staff's condition #3 that states, "and Restrictions for Pond Easement and Maintenance Agreement"; and that the motion include the following conditions:

1. The plat shall not be recorded until the county attorney has approved the financial guarantee.
2. The plat shall not be recorded until staff has received documentation from the Chatham County Public Works Department that the water lines have been completed, testing done, as-built plans received, and water tap fees paid.
3. Declaration of Covenants, Conditions, and Restrictions for Valley Meadow shall include language regarding maintenance and restrictions of pond on lots #23, 24, 25, and 26 and shall be recorded in the Office of The Register of Deeds.

The motion passed unanimously (7 Board members).

VII. ZONING AND ORDINANCE AMENDMENTS: *Items from July 18, 2005 Public Hearing:*

- A. Request by Sandy Pond Enterprises, LLC for a B-1 Conditional Use District with a Conditional Use Permit for Veterinary Clinics and Hospitals with dog runs or equivalent facilities and for a dog boarding facility, on approximately 4 acres, located on the north east corner of US Hwy.15-501 and Vickers Road, S. R. 1719 in Williams Township.

Chairman Eliason stated that the applicant has requested that this application be postponed until next month's Planning Board meeting [October 4, 2005] and that the postponement not count as one of the Planning Board's three required meetings to consider approval. It was the consensus of the Board that no action is necessary to acknowledge this request.

- B. Request by Robert Blitchington for a revision to the existing conditional use permit for Michael Cates / Ferrellgas, L.P. / propane gas business to a conditional use permit for a Contractor's Office and Shop, on one (1) acre, located off US Hwy. 15-501 N. in Baldwin Township.

Chairman Eliason stated that the applicant has asked that this request be removed from tonight's agenda (due to septic permit not being issued) and that the applicant is comfortable that this meeting would count as one of the three Planning Board meetings for consideration. It was noted that this issue would be on the October 4, 2005 Planning Board agenda and that no action tonight by the Board was necessary.

Recess as Planning Board

At this time, Mr. Wilson made a motion; seconded by Mr. Mason to recess as the Planning Board and reconvene as the Watershed Review Board. The motion passed unanimously (7 Board members).

VIII. WATERSHED REVIEW BOARD:

- A. Request by Chatham County Planning Department for revisions to Sections 102, 301(F), and 304(A) of the Chatham County Watershed Protection Ordinance.

Mr. Megginson reviewed the agenda notes for this request. He referenced the maps (i.e., attachments in tonight's agenda packets) designating the various watershed lines throughout Chatham County. He noted the following watersheds within the Siler City reservoir:

- critical area - closest to the water
- balance of watershed (WSIII-BW) - includes all drainage area
- protected area – doesn't include all drainage area, just includes drainage so many miles up stream.

Mr. Megginson stated that when the County originally started the watershed implementation all of the critical area of the Siler City reservoir was within Siler City's jurisdiction; that the size of the lower reservoir was increased which also increased the critical area involved; that this increase put part of the area outside Siler City's jurisdiction into the County's jurisdiction; that this required the County to amend the watershed map; that the County's WS-III BW (Balance of Watershed) area allows a 5/70 density (5% of the watershed area can be developed up to 70% impervious surface); that under State rules this request (5/70) requires increased stream buffers from 50 feet to 100 feet along perennial streams; that Chatham County's Watershed Ordinance is more stringent than the State; that the County's density in the river corridors (1/2 mile each side of the river) allows only one (1) dwelling unit per five (5) acres; that the State allows two (2) dwelling units per one (1) acre; that the County's density is already ten times more stringent than the State; that in this area the County already requires 100 foot buffers on perennial and intermittent streams; that this area not only follows the Rocky River but that further north the river splits into the north prong of the Rocky River and Rocky River and then to Greenbrier Creek (which is a major creek); that this river corridor was extended for density and stream buffers along all three of these areas; that for these purposes, the County had the critical area defined (as listed in the ordinance) a WS-III critical area; that the WS-III critical area is not shown on the watershed map since the river corridor (RC) is more stringent than the State's critical area; that it is incorporated within this area and is fine with the State; that there is a time period (after the State has approved Siler City) that the County has to act on changing regulations to correspond with what the State's minimum requirements are; and that staff is asking that the Board allow these proposed revisions to the Watershed Ordinance to proceed to public hearing later this month (regular public hearing date September 19, 2005).

Chairman Eliason noted that the area shown in white on the map included in tonight's agenda packet indicates the ETJ (extra territorial jurisdiction) area of Siler City; that everything north of this area is under discussion; and that the outer black lines indicate the watershed proposed boundary change (to be all River Corridor).

There was no further discussion.

Mr. McBee made a motion; seconded by Ms. Andrews to send the proposed revisions to the Chatham County Watershed Protection Ordinance, as recommended by the Planning Department, to public hearing September 19, 2005. The motion passed unanimously (7 Board members). The proposed revisions are as follows:

Note: All amendments are in italic and all deletions are indicated with a strikethrough. The italic is only added for emphasis and is not to be incorporated into any amendments as approved by the Board of Commissioners.

Section 102. Jurisdiction (pg. 2, Note: this section does not include a text amendment, but is an amendment to the watershed protection map)

Adopt the revised map titled "Watershed Protection Map of Chatham County, North Carolina".

Section 301. Establishment of Watershed Area. (pg. 5)

(F) River Corridor (RC):

These areas consist of land within: (1) a line drawn parallel to rivers a distance of 2,500 feet from the banks except for specific excluded areas on the watershed maps and (2) a line drawn parallel to the Rocky River Lower Reservoir a distance of 2,640 feet from the normal pool elevation of approximately 540 feet.

Section 304. Buffer Areas Required. (pg. 16)

(A) *A minimum one hundred (100) foot vegetative buffer is required for all new development activities that exceed the low density option; otherwise a A minimum fifty (50) foot vegetative buffer for development activities is required along all perennial and intermittent waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Rivers and perennial and intermittent waters within 2,500 feet of rivers shall have a minimum one hundred (100) foot vegetative buffer. The above shall be required unless the applicant demonstrates that a lesser distance (but not less than thirty (30) feet) is adequate to guard against stream pollution. Evidence may be based on topography, soils, geology, and other pertinent information.*

Adjourn as Watershed Review Board:

At this time, Ms. Andrews made a motion; seconded by Mr. Wilson to adjourn as the Watershed Review Board and reconvene as the Planning Board. The motion passed unanimously (7 Board members).

IX. ZONING AND ORDINANCE AMENDMENTS: *Items for September 19, 2005*

Public Hearing:

- A. Request by Danny Franklin Thomas for a revision to his existing conditional use permit to condition # 1 (a), to allow a one year extension of time and revision to condition # 17 to allow a five (5) year completion date and a revision to the existing signage allowed on the property.

- B. Request by Mark Ashness on behalf of Gaines Brothers of Chatham, LLC for a modification to a RA-40 zoning district with a conditional use permit for a Planned Unit Development, The Homestead, to add 50.6 acres of land to the RA-40 zoning district and nine (9) additional residential lots to the Planned Unit Development, located off SR-1716, Bob Woods Road, New Hope Township.

- C. Request by Baycorp Development, Inc on behalf of Clarence M. Walters for a Conditional Use B-1 Business District with a Conditional Use Permit for various uses, consisting of one (1) lot on approximately 4.6 acres, located off U. S. Hwy 15-501 N and SR-1532, Mann's Chapel Road, Baldwin Township.

- D. Request by North Chatham Investments, Inc for a Conditional Use Permit for a Planned Unit Development and Daycare Facility within the existing RA-40 zoning district and a B-1 Conditional Use Business District with a Conditional Use Permit for various uses, on approximately 98.5 acres, located off U. S. 15-501 N and SR-1721, Lystra Road, Williams Township.

Mr. Megginson stated that the above items (A – D) are scheduled for public hearing September 19, 2005 (along with the watershed revisions just approved); that Board members were distributed application material during tonight's meeting; and that information regarding these issues can also be found on the County's website under Planning then under Zoning and Subdivision Requests for 2005.

X. OLD BUSINESS:

- A. Discussion of Watershed 10/70 Rule

Mr. Megginson reviewed the agenda notes for this issue. He stated that tonight's discussion is a continuation from last month's Planning Board meeting; that with a high-density option, land can be developed very densely as far as impervious surface provided engineered storm water structures and financial liability are in place; that Chatham County did not want to go this route; that the County chose the low-density option since it already has very low-density development; that in order to provide some higher-density development the State came up with the 10/70 rule that allows 10% of the entire WS-IV drainage area developed at 70%

impervious surface; that we already allow the entire area to be developed at 36% impervious surface; that an additional 9,407 acres could be developed out of a total of 134,380 acres for a total impervious area of 52,946 acres if the 10/70 provision is included for the WS-IV Protected Area (as noted in Chris Walker's calculations in his E-mail distributed earlier to Board members and included on the County's website); that development is prevalent whether or not the 10/70 Rule is adopted; that partly what staff has addressed is how it is done and where it is located; that attachment #1 in tonight's agenda lists the table of watershed regulations from various jurisdictions; that staff has included recommendations in the back of the table (considering staffing levels and etc.); that while researching this, Jason Sullivan discovered that the State is working on another set of regulations that would be optional (called the Universal Storm Water Program); that this option is not yet available; that it has been proposed to go to the Environmental Management Commission in March; that the State is trying to combine several of the different storm water programs into one that would be both more environmental friendly and development friendly; that this is not currently available; that what this essentially could do is to do away with the watershed regulations altogether and post development portion of Phase II storm water programs; that staff considered postponing this issue to see what happens; and that from a development standpoint the proposed Universal Storm Water Program is more liberal (i.e. no impervious limit).

Discussion followed. Chairman Eliason stated that part of the rationale for the program is to make it easier for municipalities to implement some type of storm water management program. Ms. Andrews asked if staff's condition #3 (that states, "Have the Commissioners make a decision during the zoning decision"), is relating back to the question of who is responsible for allocating the 10/70 Rule, i.e. Commissioners make decision rather than the watershed staff. Mr. Megginson explained that the way that would work (since it is recommended to be used only in the zoned area when a conditional use zoning is requested) is that the Commissioners would be reviewing the application and could deny the request or approve the request with conditions, i.e. 50% impervious surface instead of 70% impervious surface. Mr. McBee stated that the 10/70 Rule makes more sense for Chatham County and that the County needs to manage growth, i.e. do smarter growth.

Ms. Andrews noted two specifics regarding staff's recommendation.

- is it staff's intention to implement on "first come-first serve" basis, and
- not preserving any percentages for governmental versus industrial/commercial use.

Mr. Megginson stated that it is staff's intention that allocations be on "first come-first serve" basis; that we would know when we get close to the 52,000 acres involved; that if the County wants 10,000 acres they could get it; that the UNC's parking lot is exempt from zoning; that if the Board wants to proceed with the 10/70 Rule we would need to look at how the UNC parking lot would fit into the scenario; that State and/or Federal properties are the only exemptions; and that staff could work this into draft language to address these issues.

Bob Eby, a resident of Fearington Village, stated that it was his understanding that UNC couldn't put in all the parking that they wanted because they were limited somehow. Mr. Eby asked what is currently in our regulations that stop UNC from putting in higher density. Mr. Megginson stated that the watershed regulations (and not zoning) restrict density; that what is proposed in staff's recommendation is to have the 10/70 Rule only in the zoned area when there is a request for a conditional use permit or conditional zoning; and that staff would need to address State properties with no buildings in a different matter.

Mr. McBee made a motion that the Planning Department staff draft language (for the Board to review at next month's Planning Board meeting) and that said language include changes noted by Ms. Andrews as discussed above. Ms. Andrews clarified that Mr. McBee's motion is for a recommendation that staff draft text for the new 10/70 Rule with the five (5) provisions noted in tonight's agenda notes, with the addition of language in condition #2 that states, "unless it is a State or Federal exempt property". Mr. McBee acknowledged that Ms. Andrews' clarification of his motion was correct. Ms. Andrews seconded Mr. McBee's motion. There was no further discussion and the motion passed unanimously (7 Board members). Note: The five (5) provisions referenced above are as follows:

1. Restrict the 10/70 option for the WS-IV PA to the zoned areas of the County.
2. Require a conditional use permit or conditional zoning district for each project unless it is a State or Federal exempt property.
3. Have the Commissioners make a decision during the zoning decision.
4. Require that any areas designated as 100 year floodplain be set aside with an additional 30 foot undisturbed buffer.
5. Require Best Management Practices to control the first one-inch of storm water from the 24 hour one year storm.

Mr. Megginson encouraged Board members to continue to look at the notes and the table of watershed regulations from various jurisdictions (included in tonight's agenda packet) and to submit any questions or suggestions to staff.

Ms. Andrews stated that her overall comment is to keep the draft language simple.

XI. NEW BUSINESS:

A. Planning Director's Report

1. Conditional Zoning

Mr. Megginson stated that conditional zoning was used in Graham, N.C. where Jason Sullivan worked before coming here; that comments have been received from citizens about our process and the lack of lead-time for people to find out about issues; that staff has been looking at how to change this; that staff made a

presentation to the Commissioners recently about conditional zoning; that the Commissioners liked it and asked that staff present it to the Planning Board; that various material regarding this issue is on the County's website; and that staff has prepared additional information since last month's Planning Board meeting. Mr. Megginson referenced the flowchart included in tonight's agenda notes. He stated that the proposal is to extend our existing process 30 more days; that it does not have to be extended this far; that the jurisdictions varied as far as the community meeting developers would have with neighbors sometime during the process; that some jurisdictions say that this meeting has to take place before the public hearing; that we are proposing that the developer hold the community meeting before submitting the application to us; and that this time frame would inform neighbors earlier and also give the developer / applicant additional time to determine if they want to proceed with the application.

Public input session was discussed. Rich Hayes stated that more open meetings serve in getting the information out to the public versus a more closed meeting with only adjacent landowners. Mr. Megginson stated that the County requires that the adjacent landowners or landowners within some distance of the property be notified of the public meeting.

Mr. McBee made a motion; seconded by Mr. Mason, that the Planning Department staff proceed to draft text language to be considered for a public hearing and that staff present said language for Board review during next month's Planning Board meeting. Discussion followed. Mr. Wilson asked how intense would (or could) the meeting be when the developer meets with the Planning Department staff. Mr. Megginson stated that these meetings are currently being held and that there are times when the applicant does not return to the Planning Department to complete an application. Ms. Brown voiced concern that open meetings should be publicized throughout the County to allow an opportunity for all citizens to speak. Mr. Wilson asked if it could be included in the motion that the community meeting be advertised countywide. Mr. McBee stated that he was uncomfortable including this in his motion. Ms. Andrews stated that the public hearing would not have to be sworn testimony; that people could contact the Commissioners or Planning Board members with comments or other concerns that would not have to be part of the legal process; and that the public hearing would be less formal and more open for citizens to present opinions.

Mr. McBee restated his motion that the Planning Department staff proceed to draft text language to be considered for a public hearing and that said language be presented for Board review during next month's Planning Board meeting. Mr. Mason seconded the motion and there was no further discussion. The motion passed 5-2 with McBee, Mason, Eliason, Andrews, and Harris voting in favor of the motion; and Brown and Wilson voting against.

2. Minor Subdivision Question

Mr. Megginson explained that the Subdivision Regulations allow an applicant (who has a piece of property on a private road said roadbed has been in existence prior to 1975) to create one additional subdivision lot through the minor

subdivision process every 12 months. Mr. Megginson stated that there are cases where an applicant wants to divide an 11 acre tract; that the 11 acre tract is not a subdivision lot (i.e. 10.01 and greater tracts are exempt from Subdivision Regulations); that if the 11 acre tract is divided it creates 2 subdivision lots; that there might be a situation where a one acre tract is divided from a 100 acre tract that creates only one subdivision lot; that these applications have been reviewed both ways, i.e. staff and/or Planning Board; that this issue has come up again; and that staff is asking the Board's opinion if staff should continue to review these situations or send the requests to the Planning Board for consideration.

It was the consensus of the Board that staff continues to review these requests through the minor subdivision process.

3. Conditional Zoning Bill

Mr. Megginson stated that Legislature approved a bill this year that makes conditional zoning legal by State Statute.

B. Planning Board Member's Reports

No reports were submitted.

- XII. ADJOURNMENT: There being no further business, Mr. Wilson made a motion; seconded by Mr. Harris to adjourn tonight's meeting. The motion passed unanimously and the meeting adjourned at 9:15 p.m.

Charles Eliason, Chair

Date

Attest:

Kay Everage, Secretary to the Board

Date