

# Chatham County Planning Board Minutes February 4, 2014



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:

B. J. Copeland, Chair  
Karl Ernst  
James Crawford  
James Elza  
Tom Glendinning  
Mike Grigg  
Cecil Wilson  
Cathy Wright

Absent:

Philip Bienvenue  
Philip Canterbury  
Donna Kelly

Planning Department:

Jason Sullivan, Planning Director  
Hillary Pace, Planner II  
Lynn Richardson, Subdivision Administrator  
Kimberly Tyson, Clerk to the Board

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 6:30p.m.

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 January 7, 2014 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 John Coffey on behalf of Coffey Grounds of Chapel Hill, Inc. for subdivision final plat review and approval of 'Horizon, Phase Two', consisting of 7 lots on 13.58 acres, located off S. R. 1525, Hamlet Chapel Road, Baldwin Township, parcel #2040.

Ms. Richardson reviewed the agenda notes for the final plat review and approval of "Horizon Phase Two" consisting of seven (7) lots. Horizon Subdivision received sketch design approval in September 2006 for sixty-two lots and preliminary plat approval in 2007. A condition of preliminary plat approval read "A determination shall be made in regard to a joint entrance between Horizon Subdivision and Buck Branch property owners and shown on the final plat with legal documentation provided regarding the abandonment of that specific portion of the easement". The request was for safety reasons as the public road in Horizon and the private easement serving Buck Branch intersect Hamlet Chapel Road within 100 feet of each other. Mr. Coffey contacted the Buck Branch property owners to ask if they would be agreeable to closing the entrance to Buck Branch and accessing their properties through the public road serving Horizon Subdivision. None of the property owners using Buck Branch Road were agreeable therefore the two separate entrances will continue to be utilized.

Phase One consisting of 38 lots received final plat approval in 2008. The development is reviewed under the pre-2008 Subdivision Regulations and the 1994 Watershed Protection Ordinance. The infrastructure necessary to serve Phase Two, i.e. public roadway and county water, is in place along with erosion control measures; therefore, no financial guarantee is required. The Planning Department recommends granting approval of the request for final plat approval.

The developer wasn't present at the meeting.

Board discussion followed.

### Motion to approve:

Ms. Wright made a motion; seconded by Mr. Glendinning to recommend the approval of the application as submitted.

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

2. Request by Dan Sullivan on behalf of Contentnea Creek Development Co. for subdivision final plat review and approval of 'Pennington at Jordan Lake', consisting of 45 lots on 67.52 acres, located off Hwy 64 E, New Hope Township, parcel #17347.

Ms. Richardson reviewed the agenda notes for the final plat review of Pennington at Jordan Lake. Sketch design for the subdivision formally known as "The Gentry" was approved for fifty (50) lots in 2006. Preliminary plat approval for 50 lots was received in 2007. This subdivision is reviewed under the pre-2008 Subdivision Regulations and the 1994 Watershed Protection Ordinance. This final plat request is for forty-five (45) lots with a financial guarantee for the completion of the required infrastructure. There will be public roads and the roads are stub-out to two (2) adjacent properties Gunn and North

Chatham Fire Department. In 2007, the board required a utility easement for future extension of county water. The watershed regulations in 2007 didn't require wetlands or ephemeral features to be buffered, however, the developer volunteered to provide a private drainage easement of twenty (20) feet total width, ten (10) feet per side for two features that were identified as either an ephemeral or a wetland. The buffers are shown on lots 4-6 and lots 26 and 27. There were five (5) conditions of preliminary plat approval and they have been met. An old chimney and house foundation is located on one of the lots. The Chatham County Historical Association was notified so that they could make a site visit to document the feature. Per the engineer, the infrastructure is fifty-eight percent (58%) complete.. The Planning Department recommends granting final plat approval with a financial guarantee with the following conditions:

1. The plat not be recorded until the county attorney has approved the form of the financial guarantee and contract.
2. Note 11 be changed to read "This property is zoned R-1".
3. The plat be revised to show the correct adjoining property owners.

Mr. John Harris, P.E. was present for any questions.

Board discussion followed.

*Motion to approve:*

Mr. Wilson made a motion; seconded by Mr. Glendinning to recommend approval with the staff recommendations.

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

**VIII. ZONING AND ORDINANCE AMENDMENTS:**

*Legislative Request:*

3. Request by F Properties, LLC to rezone the remaining acreage being approximately 1 acre of the 1.77 acre tract, Parcel No. 11515, from R-1 Residential to B-1 Business, located off Old US 1.

Mr. Sullivan briefly reviewed the agenda notes to rezone the remaining acreage of parcel number 11515 from Residential-1 (R-1) to Business 1 (B-1). Public hearing was held January 21, 2014 and no one spoke on the item. Planning Department recommends approval for the general rezoning request.

Ms. Corri Faquin was present for any questions.

Board discussion followed.

*Motion to approve:*

Mr. Glendinning made a motion; seconded by Mr. Grigg to approve the rezoning application as submitted.

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

Consistency Statement:

It is the opinion of the Planning Board the request to rezone the remainder of Parcel No. 11515 from R-1 Residential to B-1 Business consistent with the front portion of the tract is consistent with the adopted land use plans and regulations of the County and therefore is approved as requested.

Motion to approve:

Mr. Copeland made a motion; seconded by Mr. Glendinning to approve Consistency Statement as submitted.

Quasi-Judicial Request:

4. Request by Sandy Pond Ent., LLC dba Dogwood Veterinary Hospital for a revision to the existing conditional use permit for a modification in size of the existing monument sign located on Parcel No. 18637, 51 Vicker's Rd.

Mr. Sullivan reviewed agenda notes for a revision of an existing conditional use permit to modify the size of an existing sign. No one spoke at the quasi-judicial hearing held on January 21, 2014. Dogwood Animal Hospital received its initial approval November 2005 and November 2011 was approved for a revision on their conditional use permit to add an additional 3500 square feet building. The applicant is requesting a larger sign measuring approximately twelve (12) feet in height and eighty-two (82) square feet of sign area. Staff recommendation is a sign no more than sixty-four (64) square feet of sign area with maximum height of fifteen (15) feet. The applicant measured the overall dimensions which were eighty-eight (88) inches in height by one hundred thirty-two (132) inches wide, whereas staff measures only the lettering per the zoning ordinance. Planning Department recommends sixty-four (64) square feet display area for the sign and up to fifteen (15) feet in height. The five (5) findings were met:

**FINDING #1 – The use requested is among those listed as an eligible conditional use in the district in which the subject property is located or is to be located.** The approved use of the property for a veterinary animal hospital is unchanged. Signage is a permitted use on the site as an accessory to the primary business.

**FINDING #2 – The requested conditional use permit is either essential or desirable for the public convenience or welfare.** Since the original approval, the animal hospital has continued to operate and the need was great enough that they were approved to add additional space after four years. This request is to make their main monument sign more visible and to keep in harmony with other surrounding signage sizes in the area. In April 2012, the adjacent property (U-Haul) obtained an approval on a conditional use rezoning that allowed them to install a up to 15 foot high sign with two signage areas consisting of no more than 64 sq ft and 32 sq ft for the secondary portion for a total of 96 sq ft. In a straight business district, the sign allowance would be up to 150 sq ft and on a 55 mph highway, it is easier and safer for the citizens to see the larger, more visible sign.

The applicant has requested an approximately 82 sq ft sign and what appears to be approximately 12 ft in height. The Planning staff recommends the sign to be up to 15 ft

in height and no more than 64 sq ft in sign area to stay in harmony with other area signage. This is conditioned below.

**FINDING #3 – The requested permit will not impair the integrity or character of the surrounding or adjoining districts, and will not be detrimental to the health, safety, or welfare of the community.** The requested signage change will be in harmony with the adjacent property signage and will be the same in appearance.

**FINDING #4 – The requested permit will be consistent with the objectives of the Land Use Plan.** This finding is unchanged. No new uses are being proposed.

**FINDING #5 – Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary facilities have been or are being provided consistent with the county’s plans, policies, and regulations.** There are no changes to any existing services, access, or other requirements under this finding with the sign change request.

Paul Cush, applicant, was present and spoke briefly about the signage. Mr. Cush at first disagreed with staff’s recommendation, but after explaining how the ordinance measures “sign area”, the applicant agreed to the staff recommendation. The applicant wanted to make sure his client was being allowed at least the same sign size as the adjacent business.

Board discussion followed.

Motion to approve:

Ms. Wright made a motion; seconded by Mr. Wilson to recommend approval of the application with staff recommendations to reduce the sign area to sixty-four (64) square feet and the owner has the option of moving the sign up to fifteen (15) feet with the following conditions:

**Site Specific Conditions**

1. One monument sign allowed to be replaced up to 15 ft in height and no more than 64 sq ft in sign area to stay in harmony with other area signage.
2. All previously approved conditions shall remain in effect and binding on this property until which time a request to remove said approval and use is approved or amended.

**Standard Site Conditions**

3. 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. These include but are not limited to landscaping, lighting, signage, parking, building construction, etc.
4. 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.

**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 inspections.
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 passed unanimously (8 members).

5. Request by Strata Solar for a conditional use permit on approximately 21 acres out of a 98.54 acre tract being Parcel No. 18869, located at 151 Vickers Rd., for a 1.99 MW solar farm.

Mr. Sullivan reviewed the agenda notes for a conditional use permit on approximately 21 acres of 98.54 acres located at 151 Vicker's Rd. A quasi-judicial public hearing was held January 21, 2014 and there was no opposition to the request and no concerns stated. A map was presented showing where the proposed solar farm will be placed. The applicant provided an environmental impact assessment and a community meeting was held as part of the rezoning process. The item went before the Chatham County Appearance Commission (CCAC) and the landscaping site plan was approved with some modifications stated in Finding #3. There are five findings that must be addressed and proof given to support each. The five findings are as follows:

- FINDING #1 – The use requested is among those listed as an eligible conditional use in the district in which the subject property is located or is to be located.
- FINDING #2 – The requested conditional use permit is either essential or desirable for the public convenience or welfare.
- FINDING #3 – The requested permit will not impair the integrity or character of the surrounding or adjoining districts, and will not be detrimental to the health, safety, or welfare of the community.
- FINDING #4 – The requested permit will be consistent with the objectives of the Land Use Plan.
- FINDING #5 – Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary facilities have been or are being provided consistent with the county's plans, policies, and regulations.

It is Planning staff opinion, **Finding #1** may be supported. The 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.

It is Planning staff opinion, **Finding #2** may be supported. Included in the application's supporting documentation is a letter from the State of North Carolina Utilities Commission in Raleigh states, dated signed January 8, 2013 which states "the registration by Vickers Farm for its solar PV facility as a new renewable energy shall be and is hereby accepted". The applicant is required by state law to report to the utilities commission who monitors the site on an annual basis.

Supporting documentation was also based on NCGS 62-2, Senate Bill 3, which became law in 2007, where 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 \$10,000 annually.

It is Planning staff opinion **Finding #3** may be supported. The applicants met with the Appearance Commission (CCAC) as required prior to submittal of the application. The site plan landscaping was approved with recommended modifications. There were also agreements made during the community meeting regarding planted buffers, screening, and lighting. The applicants stated they would add a buffer to the southeast quadrant with full height shrubs to be used to screen the entire height of the buffer, a six foot high black vinyl coated fence to be installed to soften the appearance of the fence with three feet of barbed wire on top, and no lighting was proposed.

There will be no noise, lighting, or large signage associated with this site. Signage will be limited to small, attached sign on the perimeter fencing.

The Environmental Quality Director reviewed the Environmental Impact Assessment and found everything to be acceptable.

Other than an NCDOT commercial driveway permit, there are no other road improvements needed or required.

It is Planning staff opinion **Finding #4** may be supported. The applicant believes this project is in harmony with the Land Conservation and Development Plan through several defined policies. This site will preserve the rural character of the site by locating on approximately 18 acres within the 98 acre tract.

The use ensures the long-term quality of surface water resources by maintaining a small impervious surface percentage and replanted ground cover. 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.

It is Planning staff opinion **Finding #5** may be supported. There are no public utilities needed to serve this site except power. No wastewater is needed. An NCDOT commercial driveway permit will be needed.

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.

The Planning staff recommends approval with the following conditions:

**Site Specific Conditions**

1. The recommendations of the Chatham County Appearance Commission and as agreed by the applicant at the community meeting 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.

**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/Compliance 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 inspections.
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.



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.

Louis Iannone, applicant, was present and spoke about the concerns with the recommended planting of Carolina Jessamine along a portion of the vinyl fence. Mr. Iannone stated their engineers had concerns with the maintenance and/or operations of the solar panels if a vine, such as the Carolina Jessamine, is planted close to the panels. The applicant and the board agreed not to plant Carolina Jessamine, but to find an alternate for the buffering and to install three (3) strands of barbed wire on top of vinyl fence, not three (3) feet as stated in finding #3.

Motion to approve:

Mr. Glendinning made a motion; seconded by Mr. Elza to recommend approval of the application as submitted with the following modifications and/or amendments:

- Change the word feet to strands in Finding #3 where it states "three feet of barbed wire on top"
- Not to plant a vine on fence.

Mr. Grigg made an amendment to the motion; the Planning Board does not recommend planting the vine as recommended by the Chatham County Appearance Committee.

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

Motion to approve:

The application as submitted and with changes to Site Specific Conditions item number one.

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

IX. NEW BUSINESS:

No new business.

X. PLANNING DIRECTOR'S REPORTS:

- Minor Subdivisions / Exempt Maps – Mr. Sullivan stated spreadsheet was given in packet.
- Discuss Planning Board training opportunities provided by staff. - Mr. Sullivan explained that an annual survey was given at last month's meeting and one of the comments received was to consider Planning Board training at the monthly meeting when there's a light agenda. By consensus the board agreed that it would be a good idea to receive training. Mr. Sullivan said they would try to have the first session at the next meeting.
- Board of Commissioners Public Hearing – February 17, 2014
- Mr. Sullivan stated that development is picking up and the board may start to review new subdivision submittals in the coming months.

