

**CHATHAM COUNTY PLANNING BOARD
MINUTES**

January 24, 2005

**(Special Board meeting to complete the review of the
Briar Chapel application.)**

The Chatham County Planning Board met on the above date in the meeting room of the Pittsboro Memorial Library in Pittsboro, North Carolina. A quorum was present to begin the meeting. The members present were as follows:

Present:

Charles Eliason, Chair
Jeff Austin, Vice-Chair
Jennifer Andrews
Angela Brown
Clyde Harris
Mark McBee
Caroline Siverson
Chris Walker
Cecil Wilson

Absent:

Winifred Smith

Planning Department:

Keith Megginson, Planning Director
Jason Sullivan, Planner
Kay Everage, Secretary to the Board

6:00 P.M.

- I. CALL TO ORDER – Chair: Chairman Eliason called the meeting to order at 6:15 p.m. He noted that Winifred Smith would not be attending tonight's meeting due to illness.

Chairman Eliason stated that what is before the Board tonight is a technical discussion regarding the Briar Chapel application; that one of the issues to be discussed is the affordable housing component; that later in tonight's meeting, Amy Powell with the Affordable Housing Coalition, would be presenting a brief presentation; and that Ms. Powell would be available to respond to questions that Board members might have regarding affordable housing.

- II. ZONING AND ORDINANCE AMENDMENTS:
Item from October 7, 2004 Public Hearing and January 4, 2005 Planning Board meeting:

- A. Request by Mitch Barron on behalf of Newland Communities for a Conditional Use Permit for a planned residential development, on approximately 1,589 acres in the vicinity of US 15-501 N., Manns Chapel Road and Andrews Store Road.

The request consists of 2,389 dwelling units, commercial & office space, church, charter school, county facilities (sites for a school, elevated water tank, 911 provider, fire station, sheriff's office, and library), community water reclamation facility, storm water quality treatment and detention system, recreational spaces, hiking and biking trails, and open space. The proposal provides for developer funded off-site roadway improvements.

Chairman Eliason stated the following nine (9) topics for tonight's review:

- Return to discussion regarding the Sandra Tripp property
- Roadway connections
- US 15-501 pedestrian access and walkability of Town Center (commercial)
- Affordable housing component
- Educational impact fees
- Public safety issues
- Bennett Mountain
- Environmental aspects
- Odor control for waste water plant (water collection basin)

Board members did not have any additional topics to add to the above list.

Sandra Tripp Property:

Chairman Eliason stated that Ms. Tripp asked that the Board relate how the Compact Communities Ordinance (CCO) deals with her specific situation.

Ms. Tripp stated that the proposed main southern entrance off Andrews Store Road runs down her property line. She asked if the request for the road adheres to the required standards. Adequate buffering was a main concern of Ms. Tripp.

Mr. Megginson referenced Section 9 (Buffers) of the Compact Communities Ordinance (CCO) that addresses three (3) different type buffering (riparian, perimeter and viewshed buffers).

Ms. Brown arrived at this time.

Discussion followed.

Condition#13 – change wording

Mr. McBee noted staff's condition #13 relative to fencing and landscaping. It was the consensus of the Board to change the wording of the last sentence of condition #13 as follows:

Initial wording: "and landscaped on the side facing Ms. Tripp's property to the extent allowed by Ms. Tripp".

Revised wording: "and landscaped with 6 - 8 foot tall trees on the east side of the fence".

Mitch Baron, applicant, stated that the proposed road is critical to the development; that the Department of Transportation (DOT) has approved the road design; that adequate fencing and landscaping (on the east side) has been allotted; that the proposed road would line up with the existing "T intersection" of Andrews Store Road and Parker Herndon Road, and is a controlling factor; that the proposed road could not be moved without also moving existing Parker Herndon Road; and that wetlands would be impacted if the road is shifted.

Steve Levitas, attorney with the law firm of Kilpatrick Stockton LLP, was present representing the applicant. Mr. Levitas referenced Section 9 of the Compact Communities Ordinance (CCO) regarding buffers. He referenced language from Section 9.3 (Viewshed Buffers) of the CCO that states, "The developer shall map all roadway views into the project and delineate a continuous buffer of at least one hundred (100) feet in width. The buffer shall be measured at right angles to the edge of the roadway right of way into the compact community".

Kevin Hamick, John R. McAdams Company, Inc., and Al Williford, Kimley-Horn and Associates, Inc., were present representing the applicant regarding traffic issues. Mr. Williford stated that what was recommended in the TIA (Traffic Impact Assessment) was that, since the traffic volume generated (i.e. taken from assignment and could be slightly different when actually built) would not meet the minimum requirement for a traffic signal, it is not recommended that a traffic signal be installed. Mr. Williford noted they did however recommend that the intersection be monitored as the project develops and that if traffic reaches the threshold then it would be a perfect place for a traffic signal.

Discussion among the Board followed. Chairman Eliason stated that the mitigation identified so far is landscaping and fencing. Ms. Tripp stated that these recommendations would help but that the proposed road is very discouraging. Chairman Eliason asked how many Board members agreed that sufficient language has been crafted thus far in terms of the mitigation for Sandra Tripp's property. A show of hands indicated a vote of 5-4 as follows:

In agreement (5):

Eliason
Andrews
Harris
McBee
Wilson

Not in agreement (4):

Austin
Brown
Siverson
Walker

Some suggestions were noted as follows:

Mr. Austin:

- idea of possibly rotating a few degrees the intersection point of the roadways and being able to actually move that entranceway to the east (whether it be 5 feet or 25 feet) to extend the vegetative buffer.
- does Ms. Tripp think - a 6 foot fence is enough
 - is the vegetative buffer adequate?

Ms. Siverson:

- adequate/additional buffering
- entrance needs to be abandoned and redesigned

Mr. Walker:

- in addition to the above suggestions, three (3) roads within the proposed development is too many

Ms. Brown:

- additional buffering of trees is needed to impact the increased noise

Chairman Eliason stated two specifics noted above:

- increase quality of buffering
- relocation of intersection

Mr. Megginson showed the stream way plan in relation to Ms. Tripp's property. It was noted that, from an environmental impact, the stream crossing on the Tripp property would have the least impact relative to wetlands and buffers.

Mr. Megginson stated that in addition to showing the buffered stream that there is an easement that goes from the Newland property across private property.

Mitch Barron stated that Newland does not own the 60-foot wide easement referenced above but that they do have control of said easement.

Chairman Eliason noted that the mitigation under discussion most attainable is the amount of buffering that can be achieved.

Gray Styers, attorney with the law firm of Blanchard, Jenkins, Miller, Lewis & Styers, P.A., was present representing the applicant. Mr. Styers stated that all requirements have been met using the very best design criteria possible.

Chairman Eliason suggested that tonight's meeting move forward and that Board members evaluate the total performance of the application against the total thoughts of the Board on each of the nine (9) topics discussed.

Ms. Andrews pointed out that the definition of a viewshed buffer (as referenced in the Compact Communities Ordinance) actually relates specifically to the roads that run along the boundary of the development and that this is not an issue at this time.

Roadway Connections:

Mr. McBee stated that during last month's meeting the Planning Board agreed with staff's recommendations regarding roadway connections with the exception of a connection to Half Dollar Road (staff's condition #6); that the policy of connecting existing roads with new roads is an issue that the Board needs to be more aggressive about; that the residents do not want a connection; and that in this particular case (because of the location of the roads) it does not seem to be a crucial connection to such a massive development.

Discussion among the Board followed. Mr. Megginson noted that having the two roads would reduce some of the traffic along Manns Chapel Road.

Condition#6- change wording

It was the consensus of the Board that the proposed development roads ***not*** be connected to Half Dollar Road. It was noted that staff's conditions #7 & 8 would remain as recommended – to not connect to Persimmon Hill Road (at this time) and to not connect to Creeks Edge Road.

Affordable Housing:

Chairman Eliason asked that Ms. Brown state her concerns. Ms. Brown referenced language from the Compact Communities Ordinance (CCO) (page 17 Moderately Priced Dwellings – A.) that states "A minimum of five percent (5%) of the total residential units in the development shall be held by and be affordable to buyers whose household incomes are no greater than sixty percent (60%) of the Area Median Family Income by family size if title to the lots so designated is donated to a nonprofit community agency designated by the County whose mission is to expand and preserve housing for low-income households. The designated agency (ies) will hold title to the land in perpetuity and lease it to qualifying households. The agency (ies) have a right of first refusal to purchase any home constructed by the qualifying family at any time the owner decides to sell it". Ms. Brown stated concern as to what the process is to make sure that these lots would be affordable.

Mr. Megginson cited that the developer has stated that they would do option A. as required in the CCO and referenced above, i.e. 5% = 120 lots; that typically these lots would be under a land trust (owns the land); and that currently there is not an agency in the county for this. It was noted that the developer could donate to a non-profit community agency designated by the county.

It was the consensus of the Board that overall the developer and application have met the performances of affordable housing as defined in the CCO.

Representatives from the Chatham County Affordable Housing Coalition spoke as follows:

Betty Wilson, former Chatham County Commissioner, thanked the Planning Board for their work and stated that she does not know of any other volunteer Board in Chatham County that has more work, more headaches and more time involved than the Chatham County Planning Board.

Ms. Wilson gave a brief history of her involvement with the Chatham County Affordable Housing Coalition (since its beginning following the community-based Chatham County Health Initiative). She stated that the Coalition (which includes Habitat for Humanity and Empowerment, Inc.) has sponsored educational classes in home ownership and has received funding for assistance in first home ownership; that Habitat and Empowerment are the two main sources of affordable housing construction in the county; that through their research and experience they are probably the most knowledgeable sources of need and availability that we have; that after studying the Compact Communities Ordinance and talking with Mitch Barron (Newland Communities), the Coalition has found some serious problems with the function of the affordable housing section of the ordinance; and that Amy Powell would address these concerns.

Amy Powell, Director, Chatham County Habitat for Humanity, noted that she is looking forward to working with this part of the ordinance and that she is excited about the possibility of having lots and the associated infrastructure to build affordable housing. Ms. Powell stated that following some research that during her discussion with Mitch Baron of Newland Communities some specifics were noted as follows:

- administration of a Land Trust – cost would be approximately \$2,000 /unit
- design issues – additional costs

Mrs. Brown identified a possible viable means for the affordable housing component to achieve the architectural integrity and performances of the applicant as follows:

Ms. Brown stated that, in researching this issue, there doesn't seem to be an agency within Chatham County to handle this; that the Commissioners could use the waiver for assistance; that she has discussed this issue with Brick Capital of Lee County; that Brick Capital has offered to assist Chatham County but has not yet been contacted; that her main concern is for the citizens of Chatham County; and that she does not have a preference as to whether a county agency or one outside of Chatham County is utilized.

Ms. Powell stated that the Coalition would definitely be interested in working with Brick Capital regarding this issue.

- rate at which units are to be built – exceeds the production capacity of local affordable housing non-profits
- cost of 3 bedroom units – difficult to sell without some subsidy

possibly increase the percentage of area median family income from 60% to 80% for a percentage of the units

(Attached is a synopsis of Ms. Powell's comments entitled, "Background and problems with implementation of moderately priced dwellings section of Compact communities Ordinance".)

Jeff Caiola with Empowerment, Inc. stated that he commends Chatham County for including affordable housing in developments such as this; that he has talked with a representative of Brick Capital; that while this could be a viable option, Brick Capital does not have a great deal of experience running a Land Trust; that Orange Community Housing and Land Trust in Chapel Hill, NC has expressed to them to be careful when administering a Land Trust; that it takes some expertise and knowledge to do it; and that Chatham County does not have the operating budget to run a Land Trust.

Ms. Brown stated that she proposes that the County Commissioners use their waiver language to change it from a Land Trust to something along the guidelines of what Brick Capital does where they actually have the title to the house (i.e. after seven years title would go to homeowner) thus allowing Chatham County to collect taxes and the homeowner to accrue equity.

Mr. Caiola stated that another issue is cost; that to construct the affordable units with the required design guidelines without subsidy funds would be prohibitive; that a cost comparison was done regarding the construction of 32 affordable Land Trust town homes in the Meadowmont Development in Chapel Hill, N.C. (See Mr. Caiola's comments entitled, "Compact Community Ordinance", attached.)

Mr. Caiola noted that if redistricting occurs (of the Metropolitan Statistical Areas) then the area median income could become even lower.

Ms. Brown stated that there is money available and that we need to make the effort to find it. Mr. Caiola stated that it would be difficult to find money on the scale of 120 units to be ample enough to cover the needed subsidy.

Mr. McBee stated that the real need for affordable housing is in the areas of Goldston, Moncure and Siler City; that the ordinance has been crafted and accepted; and that the above issues are exactly why this topic is so controversial.

Commissioner Mike Cross asked where the loan monies would come from for a prospective homeowner to finance affordable housing when the property is in a Trust. Mr. Caiola stated that there are banks that would fund loans for affordable housing.

Walkability Component – U.S. 15-501 Pedestrian Access (from the residential component of the project to the commercial project):

Ms. Brown stated that she is concerned about the safety of residents going from side to side (of U.S. 15-501); that this is extremely dangerous; and that even with a pedestrian walkway it is still risky.

Mitch Baron stated that there are two signal light intersections planned (one at Andrews Store Road and one at Taylor Road); that pedestrian signal light crossings (i.e. "Walk / Don't Walk") would allow pedestrians to safely walk across the road; that a professional office park is planned on the east side of the highway; that there is no justification for a pedestrian bridge to go over U.S. 15-501; that in his opinion a bridge would, 1.) not be utilized, 2.) be an eyesore, and 3.) create safety hazards; and that the project meets the requirements of the Compact Communities Ordinance regarding pedestrian accessibility.

Discussion among the Board followed. Some specifics of the project were noted as follows:

- interconnected roadways that are pedestrian friendly
- interconnected pedestrian trails that also are allowed to be paved and also allow for non-motorized traffic, i.e. bicycles
- walkable component to an amenity with the radius required

Ms. Siverson voiced concern regarding how disconnected the commercial area is from the main community. She stated that it is not clear how much commercial activity is going to be in the village center within the community; and that the project is not really meeting the requirement of a compact community to have the town center be part of the community.

Mr. Walker asked if bike paths were proposed and if an underground tunnel had been explored (for pedestrian crossing). Mr. Barron stated that bike / pedestrian trails were planned and that an underground tunnel was very briefly explored but was not found to be feasible due to various factors, i.e. cost, usage, safety.

Wastewater System Plant (water collection basin) – odor control

Chairman Eliason asked that Mr. Fleming and/or Mr. Ashness (members of the project development team) explain to the Board whether or not there would be unpleasant odors and what the performances of the plant would be with the possible odors that citizens seem to have under concern.

Lee Fleming, Jr., engineer, stated that the wastewater treatment facility proposed for this site is an advanced designed system; that a proposal has been made for the storage pond to have a flowing aerator for potential odor reduction; that many of the odor issues of the treatment facility could be contained or restrained by proper maintenance by the plant operator; and that plans are to phase the treatment facility.

Discussion followed regarding the collection basin regarding containment and/or scrubbing to eliminate odor.

Mr. Fleming stated that the proposed facility would be a concrete facility with walkways around the structure; that it would be very difficult to contain the first

chamber (or to put a lid or roof on it); but that a chemical could be added to the collection system for odor reduction.

Gray Styers, attorney representing the applicant, stated that the design of the community took into consideration the location of the fields; and that the Air Quality Division of NCDENR looks at wind directions and active data throughout the year.

The Board discussed the importance that the waste process is under control through all phases of the plant and system.

Mr. Ashness addressed the waste holding ponds. He stated that three separate systems are proposed due to the scale and size of the community; that the development would have a central pond with two other pond locations all working independently of each other; that the central pond (largest of the three irrigation storage ponds) would be the source to supply the central area project; that said pond is sized to also pump to ponds on each end of the project (western and eastern pond) if needed; and that the ponds are generally sited to prevent surface runoff.

Reuse water and the delivery system were discussed. Mr. Ashness stated that this is a beneficial resource and should be utilized when needed; that potable water (from Chatham County water plant) needs to be saved so that the plant doesn't have to be upgraded sooner than is necessary; that the reuse water would be de-chlorinated; and that a grounds crew (similar to that for a golf course) would maintain the delivery system.

State reporting was discussed. Mr. Levitas stated that there would be a State permit issued for the proposed system; that said permit would require a variety of monthly reports addressing treatment rates, monitoring results, management efforts, and application rates; and that the State would address any possible problems. Mr. Styers stated that the Compact Communities Ordinance (CCO) also requires filing of certain forms with the County and that the CCO also addresses financial performance bonds.

At this time (8:30 p.m.) Chairman Eliason called for a 10-minute break.

Chairman Eliason continued the discussion by asking Mr. Ashness to address where the control systems for the delivery component of the wastewater system are proposed to be. Mr. Ashness stated that there would be a maintenance building near the wastewater treatment plant; and that there would be an office with a PLC based computer system and a weather station in said building. He explained the process of collecting and submitting monthly data to the State.

Ms. Siverson asked if there are any other surrounding communities that are planning to hook into the proposed wastewater system. Mr. Baron stated that there is a possibility that Herndon Woods (a 25 lot subdivision that is experiencing some failing waste water systems) would hook into the proposed system.

Bennett Mountain (lots and road):

The Board discussed conditions (#3 and #4 regarding Bennett Mountain) recommended by staff and stated as follows:

3. It is the staff recommendation that the lots on Bennett Mountain be relocated to lessen the impact of the development on the primary and secondary environmental areas as described in the Natural Areas Inventory.
4. The Bennett Mountain area will be one of the last areas for line installation and spray irrigation. If future regulatory changes, and/or approved system flow reductions, will ultimately result in this area not being needed for irrigation, lines will not be installed in this area unless otherwise required by the State.

Before any lines are installed in the Bennett Mountain area, Newland will seek further flow reduction approval or other necessary state permission under the then existing applicable regulations so as not to be required to install irrigation lines in this area in order to comply with permit requirements and the then existing applicable regulations.”

Mr. Megginson stated that lots would not be lost from the development itself but rather relocated away from the Bennett Mountain area; and that moving the road was explored; and that the existing road was found to be in the location that creates the least amount of land disturbance.

The Board discussed spray irrigation. Mr. Levitas stated that the State approaches the design of these facilities very conservatively in terms of requiring much more spray irrigation that typically proves to be needed in these projects; that the most experience has been from Governors Club in terms of flow; that the flow rate is calculated based on projected flow per household; that the actual flow is considerably less than half what it was designed for; that the development has been in the County for fifteen years; and that there is a reasonable likelihood that all of the capacity would not be needed at build out.

It was the consensus that the Board would follow staff’s recommendations stated above.

Public Safety (fire, police):

Ms. Brown voiced concern regarding the response time of fire vehicles. She stated that it was her understanding that State requirements are that fire stations should be within a five (5) minute response time.

Mr. Baron stated that he was not aware of any State regulations regarding response time; that a site (fire department) has been provided on the plan; that said plans have been given to fire department personnel for review; and that it

would likely be that the existing fire department (Mann's Chapel Road) would move to the larger facility at the proposed site.

Educational Impact Fees:

Mr. Levitas stated that 21.5 acres are proposed for the public school site. Mr. Baron stated that the County does not know yet which grade level school that they want but that an elementary school is proposed. Mr. Baron noted that there is flexibility to accommodate a middle school.

Discussion among the Board followed. It was identified that staff's recommendations #20 and #21 provides for revisions for a school. Mr. Walker wanted to clarify that there be some flexibility for the type school to be built, i.e. Elementary, Middle, and High School.

Greg Solomon, stated that he regularly attends Chatham County School Board meetings; that the School Board has just voted on middle school / K-5 models; that the likelihood is much greater that a middle school site would be needed; and that it is important that this proposed site be expandable.

Motion:

Mr. McBee made a motion to approve the Briar Chapel application as submitted with the recommendations made by staff with the following changes:

Condition #6 – revise language to read, “The development roads **shall not** be connected to Half Dollar Road”.....

Condition #13 - revise language to read, “the opaque fence shall be erected along the east side of Ms. Tripp's property, consistent with NCDOT regulations, and landscaped **with 6-8 foot trees on the east side of the fence**”.

Condition #20 – add language, **“and that the developer work with the County for additional acreage where possible if it is decided that the school is to be for grades other than K-5”.**

Ms. Andrews seconded the motion. Following discussion, Mr. McBee amended his motion to include that the application meets the five findings. Ms. Andrews seconded the amendment. The motion passed 7-2 with McBee, Andrews, Eliason, Austin, Brown, Harris, and Wilson voting in favor of the motion; and Siverson and Walker voting against.

III. ADJOURNMENT: There being no further business, the meeting adjourned at 9:00 P.M.

Charles Eliason, Chair

Date

Attest:

Kay Everage, Secretary to the Board

Date