

**CHATHAM COUNTY PLANNING BOARD**  
**MINUTES**  
**April 4, 2006**

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  
Paul McCoy  
Chris Walker  
Cecil Wilson

Absent:

Winifred Smith

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: Chairman Eliason called the meeting to order at 7:05 p.m. He welcomed Paul McCoy to the Planning Board. Mr. McCoy was appointed by Commissioner Carl Outz during the March 20, 2006 Commissioner's meeting. Mr. McCoy replaces Jeff Austin who resigned last month.
  
- II. APPROVAL OF AGENDA: Ms. Andrews made a motion; seconded by Mr. Mason to approve the agenda as submitted. There was no discussion on the motion and the motion passed unanimously. (7 Board members)
  
- III. CONSENT AGENDA: Mr. Walker stated that he had a question regarding the Bobcat Point request (item B. 2. listed below). It was the consensus of the Board to remove this item from the consent agenda for discussion. Ms. Andrews made a motion; seconded by Mr. McBee to approve the consent agenda as submitted (items A. and B. 1 listed below and excluding the Bobcat Point subdivision request.) There was no discussion on the motion and the motion passed unanimously. (7 Board members)
  - A. Minutes:  
Consideration of approval of minutes for March 7, 2006 Planning Board meeting.

B. Final Plat Approval:

1. Request for Steve Christopher for subdivision final plat approval of “Scarlet Oak”, consisting of 7 lots on 12 acres, located off S. R. 1530, Polks Landing Road, Baldwin Township.
2. ~~Request by Ricky Spoon Builders, Inc. for subdivision final approval of “Bobcat Point Subdivision, Phase IV, Lots 110 and 127 – 135”, consisting of 10 lots on approximately 58 acres, located off SR-1559, Emerson Cook Road, Hadley Township. This item was removed from the consent agenda for review. (See item IV. B. below).~~

End Consent Agenda

IV.

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

The following citizens requested to speak regarding the Dixon property.

- Nelson Wall, 64 Willow Way, Chapel Hill, NC, and
- Jack Wilkins, 62 Willow Way, Chapel Hill, NC

Chairman Eliason explained that this particular time is designated for public input regarding issues that are not on the agenda. He asked that Mr. Wall and Mr. Wilkins state their comments during the discussion of the “Dixon Property” request scheduled later in tonight’s meeting. (Item V. B.)

B. FINAL PLAT APPROVAL:

Request by Ricky Spoon Builders, Inc. for subdivision final approval of “Bobcat Point Subdivision, Phase IV, Lots 110 and 127 – 135”, consisting of 10 lots on approximately 58 acres, located off SR-1559, Emerson Cook Road, Hadley Township.

Mr. Walker referenced note #6 stated on the plat map that reads, “The portions of the septic easements for lots 133, 134, and 135, which lie within the water hazard buffer, shall not be used for septic systems.” He asked how the crossing of the creek was to be completed to access the off-site septic area for Lot 100 (is it presumed that the piping would have to go under) and how the re-vegetation of the disturbed area would be handled. Ms. Richardson stated that it is not uncommon for Chatham County Environmental Health Department to approve an off-site septic area and that crossing a creek at a right angle is allowed; that a solid pipe is used in the area that crosses the creek; that County regulations require re-vegetation of buffer areas that are disturbed; and that she would provide more information about the creek crossing after discussing the issue further with an Environmental Health Specialist.

Angela Brown arrived at this time. (7:10 p.m.)

No adjacent property owners spoke.

Discussion among the Board followed. Off site septic areas located on lot #133 were noted.

Clyde Harris arrived at this time. (7:15 p.m.)

Mr. McBee made a motion; seconded by Mr. Mason to grant final approval of Bobcat Subdivision, Phase IV, Lot 110 and Lots 127 –135 as submitted; with additional notes to the County Commissioners regarding the process of crossing the creek, (i.e. how the line would cross the creek, who is responsible to oversee this, and the revegetation of the construction area); with approval of the proposed road name 'Three Forks Lane'; with the following two (2) conditions:

1. The Mylar copy of the plat shall display a Voluntary Agricultural District certificate.
2. The plat shall not be recorded until staff has received a copy of the commercial driveway permit from NCDOT for 'Three Forks Lane'.

There was no discussion on the motion and the motion passed 7-0-2 with McBee, Mason, Andrews, Eliason, McCoy, Walker and Wilson voting in favor of the motion; and Brown and Harris abstaining.

V. SKETCH DESIGN APPROVAL:

- A. Request by Dan Sullivan on behalf of Pennington Family Trust for subdivision sketch design approval of "Pennington Subdivision", consisting of 18 lots on 97 acres, located off SR- 1716, Big Woods Road, New Hope Township.

Ms. Richardson reviewed the agenda notes for this request.

No adjacent property owners spoke.

Discussion among the Board followed. Mr. Walker noted that numerous lots on the plat map are marked unsuitable for septic. He inquired if there was a proposed plan if additional lots (more than anticipated) prove unsuitable.

John Harris, engineer for the project was present. Mr. Harris stated that at this time the soils report is preliminary; that conventional systems are proposed; that the number of lots would reduce if adequate soils are not found; that Roy Lowder, Utilities Director, Chatham County, has stated that there would not be a problem extending a 6" ductile iron line pipe to this subdivision from the existing end at Windfall Creek; and that he would provide the Board (at preliminary submittal) a letter from Mr. Lowder stating that he is comfortable with the water line extension.

There were no other comments from the Board.

Ms. Andrews made a motion; seconded by Mr. Wilson to grant sketch design approval of the plat as submitted. Following discussion, Ms. Andrews amended her motion to include that at preliminary plat review the developer shall provide a letter from the Chatham County Utilities Department stating that the water plans have been reviewed and approved by Chatham County. Mr. Wilson seconded the motion and the motion passed unanimously (9 Board members) with the following two (2) conditions:

1. The preliminary and final plats shall include a utility easement to the Jordan Woods property at a location determined suitable by the engineer and Chatham County Utilities Department.
  2. At preliminary plat review, the developer shall provide a letter from the Chatham County Utilities Department stating that the water plans have been reviewed and approved by Chatham County.
- B. Request by Glenn M. Phillips, P. E., Ballentine Associates, P. A., on behalf of James E. Dixon for subdivision sketch design approval of "Dixon Property", consisting of 28 lots on approximately 83 acres, located off S. R. 1532, Mann's Chapel Road, Baldwin Township.

Ms. Richardson reviewed the agenda notes for this request. She stated that this issue was on the February 7, 2006 Planning Board agenda; that the applicant requested the issue be postponed until the March Planning Board meeting and the review period not commence until the issue is placed back on the Planning Board agenda; that the Planning Board did not review the request in February or March, 2006; that staff has received a signed major subdivision application from Persimmon Hill Homeowners Association as a party to this subdivision; and that the attorney's representing Mr. Dixon and adjoining property owner, David Hackney, do not agree with the entrance location for the proposed subdivision.

The following adjacent property owners spoke:

- Nelson Wall, 64 Willow Way, Chapel Hill, NC, stated that he was not against the proposed development; that he is opposed to the proposed public road connection to the Twin Lakes Golf Course private road easement; that he and Twin Lakes Golf Course, Inc. built and paved the private road and own the land to the center of the road on both sides; that he does not want the additional traffic on this private road; and that he suggests a cul-de-sac for that area with no connection to Twin Lakes Golf Course private road.

Board discussion followed. Ms. Richardson stated that the plan was presented to staff showing the connecting road; that staff did not require the road connection; and that staff was fine with the road stopping at the creek and a stub out provided to the Twin Lakes Golf Course private road (for interconnecting roadway purposes) for possible future development.

- Jack Wilkins, 62 Willow Way, Chapel Hill, NC, stated that his main concern is the road connection to the private road of the Twin Lakes Golf Course as Mr. Wall alluded to and discussed above.

Ms. Brown asked if the developer had explored an alternative entrance.

Glenn Phillips, P.E., Ballentine Associates, P.A., was present representing the applicant. Mr. Phillips stated that he started this project in 2002; that access has always been one of the key issues; that until recently Persimmon Hill was a major issue; that Persimmon Hill was originally approved at a certain density with assumption that roads would be dedicated as public streets and taken over by the State; that the roads were built to public standards but a petition was never filed to the Department of Transportation (NCDOT.) and the roads were never

taken over; that when Persimmon Hill was created, the intent was that this property have access to a public road and the access was provided as shown on the proposed plat map; that since the residents of Persimmon Hill did not necessarily want to access the road at this point the developer was able to work out a land swap and get access out to Manns Chapel Road; that what was not anticipated was the contact by Mr. David Hackney claiming that the right-of-way from Manns Chapel doesn't exist at 60 feet wide and that he actually owns to the center of the road; that Ann Anderson, attorney for the project and Kevin Piver, licensed surveyor, have done extensive research on this right-of-way issue; that the applicant has spent a considerable amount of money on this research; that they feel that the right-of-way at Mann's Chapel Road is 60 feet wide; that an alternate entrance would be to go back to Persimmon Hill Road but this is not an option that the applicant wishes to pursue; and that NCDOT will not take a position on the issue until the matter is resolved between Mr. Dixon and Mr. Hackney.

David Hackney, adjacent landowner, stated that his attorney and Mr. Dixon's attorney do not agree on the right-of-way issue; that he has met with NCDOT and was advised that NCDOT would not be involved in a land dispute; that the applicant has not approached him regarding the proposed access; that property value and traffic are major concerns; and that he is open to negotiation.

Discussion followed. Ms. Richardson stated that part of the requirement is that a commercial driveway permit from NCDOT be in place at preliminary plat submittal and that in order to obtain this, the entrance issue would need to be resolved. Mr. Walker stated that he would prefer the matter be resolved before sketch design is approved.

A resident of Persimmon Hill (who did not state her name) cited that the residents of Persimmon Hill were not forced into a land swap with the applicant.

Ann Anderson, attorney representing the applicant stated that she has spoken with Mr. Hackney's attorney; that it is her understanding that the request should proceed in the process and that the attorney's would address their dispute in connection with discussion with NCDOT; and that it is not essential that the entrance issue be resolved at this phase of the subdivision process.

Glenn Phillips stated that the stub out over to the golf course road was done in anticipation of a requirement by Chatham County; that the road could be turned into a cul-de-sac; that it was thought that the stub out would serve as a traffic safety issue (i.e., 2 points of access); and that if the Board does not request the stub out it would be taken off the proposed plan.

Discussion followed regarding the private road (Twin Lakes Golf Course) and language on the plat map noting easement and drive encroaching. Ms. Andrews stated that this is a title matter that the owner's might want to consider now rather than try to sell a lot later with an encroachment on it. Mr. Megginson noted that Mr. Phillips has stated that lot #11 could be included with the land on the east of the creek; that it would seem feasible to cul-de-sac the road (keeping it on the west side of the creek) and extend a dedication of right-of-way from the end of the cul-de-sac on the west side of the creek to the balance of the Dixon property. It was the consensus of the Board that this would be acceptable.

For clarification, Mr. Phillips asked if the stub is not connected and the cul-de-sac is moved to the west side of the creek could lots be served on the east side of the creek with driveways from the cul-de-sac as previously discussed. It was the consensus of the Board that this could be done. Chairman Eliason noted that State roads allow access for up to three lots off a 30 foot private easement and that a fourth lot could be added by application through the Planning Board but that if more lots are added the developer should be prepared for a thorough evaluation of the roadway system (based on tonight's discussion).

Following discussion, Mr. McBee made a motion; seconded by Ms. Andrews to grant sketch design approval of the plat as submitted and as recommended by staff; to include an additional condition regarding stub out and turn-a-round (see condition #4 below).

There was no discussion on the motion and the motion passed 8-1-0 with McBee, Andrews, Brown, Eliason, Harris, Mason, McCoy, and Wilson voting in favor of the motion; and Walker voting against.

The following four (4) conditions apply as follows:

1. The Mann's Chapel Road right-of-way / Dixon property entrance issue be resolved prior to the applicant submitting for preliminary plat review.
2. The Persimmon Hill Homeowners Association shall sign the major subdivision preliminary application unless the land transfer between James E. Dixon and the Persimmon Hill Homeowners Association is completed prior to submittal of the preliminary plat for review.
3. The preliminary plat shall show the correct radius for each cul-de-sac and shall include a temporary turn-around as recommended at the end of Road 'C'.
4. Road 'A' as shown on the sketch design plan shall be stubbed out on the west side of the creek and shall not extend to the eastern boundary line of the Dixon property. A temporary turn-around, meeting the size requirements for a cul-de-sac as specified in the Subdivision Regulations, shall be built at the end of road 'A'. A 50 foot wide dedication of public right-of-way shall be shown from the end of the cul-de-sac on the west side of the creek to extend across the creek to the balance of the Dixon property.

#### VI. SKETCH and PRELIMINARY APPROVAL:

- A. Request by David C. Johnson for a variance from the Chatham County Subdivision Regulations, Section 6.4, Lots, (B), Arrangement (3) and for subdivision sketch and preliminary approval of "Fern Creek Subdivision", consisting of 4 lots on ~~15~~ 20 acres, located off SR-1714, Sugar Lake Road, New Hope Township.

Ms. Richardson reviewed the agenda notes for this request. She stated that the Board previously reviewed and recommended approval for the requested variance and sketch design in July, 2005; that sketch design expired January of this year because of delays in receiving an erosion control permit from the

State; that the applicant is currently reapplying for the variance and sketch design request and applying for preliminary review and approval; that the requests are the same as previously stated; and that the acreage noted in the application should have read 20 acres instead of 15. Ms. Richardson noted that the applicant, David Johnson, and the attorney representing the applicant, Cindy Perry, were present.

An adjacent landowner (who did not state his name) stated that concerns have been met regarding roads.

Ms. Andrews stated (unrelated to her service on the Planning Board) that in dealing with her clients she has found that the six-month time limit (from sketch design approval to preliminary plat submittal) is not adequate time to obtain erosion control permitting. Ms. Richardson stated that staff is presently exploring this issue and that Jason Sullivan has drafted language to possibly amend the regulations to extend this time limit to twelve months.

There was no further discussion. Ms. Andrews made a motion; seconded by Mr. Mason to grant approval of the road name 'Fern Creek Trail' and the variance request from the Chatham County Subdivision Regulations, Section 6.4, Lots, (B), Arrangement (3) and approval of the subdivision sketch and preliminary requests, as submitted and as recommended by staff. There was no discussion on the motion and the motion passed unanimously. (9 Board members)

## VII. PRELIMINARY APPROVAL:

A. Request by Trenton Stewart on behalf of HBP Properties, LLC for subdivision preliminary approval of "Legend Oaks", consisting of 63 lots on 110 acres, located off Hwy 15-501 N., Williams Township.

Ms. Richardson reviewed the agenda notes for this request. She stated that Trenton Stewart, engineer for the project and Brantley Powell, applicant, were present.

Mr. Wilson left the room at this time.

No adjacent landowners spoke.

There was no discussion among Board members. Ms. Andrews made a motion; seconded by Mr. McBee to grant approval of the road names 'Legend Oaks Dr.', 'Grassy Creek Way', 'Peak View Place', 'Duelling Oaks Dr.', and 'Little Bend Ct.', and approval of the preliminary plat with the following condition:

1. The final plat shall show a utility easement along the common boundary lines of Lots 40 and 41.

The motion passed 8-0-1 with Anderson, McBee, Eliason, Brown, Harris, Mason, McCoy and Walker voting in favor of the motion; and one abstention by Mr. Wilson who was absent from the Board at this time.

VIII. ZONING AND ORDINANCE AMENDMENTS: - *Items from March 20, 2006 Public Hearing*

- A. Request by Nick Robinson, Attorney, on behalf of MacGregor Development Company for a revision to the existing "Booth Mountain Planned Unit Development" to relocate the amenity area. The project area consist of 180 lots on approximately 294 acres located off S.R. 1717, Jack Bennett Road, and SR-1721, Lystra Road, Williams Township.

Mr. Wilson returned to the Board at this time.

Ms. Richardson reviewed the agenda notes for this request. She stated that during the recent public hearing, Allison Weakley had some questions about the use of the amenity area and if any of the setbacks had been changed. Ms. Richardson noted that Mark Ashness addressed these concerns during the public hearing and stated that there would be no changes in setbacks.

Mr. Megginson stated that input on this request was received at the quasi-judicial public hearing; and that unless there are questions regarding information submitted at the public hearing that was not understood there should not be any additional new input to the Board at this time.

Allison Weakley, 311 Booth Hill Road, Chapel Hill, NC, stated that she is not presenting any additional information; that she wanted to clarify that her comments voiced at the March 20<sup>th</sup> public hearing included more than what is represented in the review notes; that her questions regarding setbacks were relative to the road placement changes; and that, as a result of the change for the amenity center, roads have been pushed further up slope thereby pushing setbacks further up slope and closer to adjacent property owners.

Discussion followed. Ms. Richardson stated that conditions set forth for the zoning approval would be reviewed at preliminary plat submittal to verify that the conditions have been met.

Ms. Andrews made a motion; seconded by Mr. McBee to grant approval of the modification request to relocate the amenity area as submitted and as recommended by staff. There was no discussion on the motion and the motion passed 8-1-0 with Andrews, McBee, Eliason, Brown, Harris, Mason, McCoy and Wilson voting in favor of the motion; and Walker voting against.

- B. Request by John W. Blair for a Conditional Use B-1 Business District and a Conditional Use Permit for - Self-storage facility / mini-warehouse storage facility with related retail and services (i.e. moving truck rental) and - Uses and structures customarily accessory to any permitted use - specifically for boat, recreational vehicle and other self-storage and an associated residential use, on 10.613 acres, located at the southeast intersection of SR-1700, Mt. Gilead Road, and S. R. 1714, Hatley Road, New Hope Township.

Chairman Eliason stated that the applicant has requested that this issue not be discussed during tonight's meeting and be reviewed during next month's Planning Board meeting.



IX. OLD BUSINESS:

A. Discussion of Zoning Change Hearing Process

Mr. Megginson stated that the discussion of this issue is a continuation from last month's Planning Board meeting concerning the public hearing process relative to conditional zoning and having a community meeting before application submittal; that during last month's meeting Jason Sullivan provided Board members information from selected jurisdictions adjoining Chatham County regarding legislative and quasi-judicial procedures; that the information summarized other jurisdictions zoning change process; that the Board of Commissioners has acknowledged interest in changing to conditional zoning; that yesterday the Commissioners adopted conditional use hearings rules of procedure and Board members were provided copies earlier tonight (see six page document attached); that these rules provide guidelines on how to conduct present hearings; that the Lystra Gardens request was pulled by the developer from consideration; that the next public hearing will be May 15<sup>th</sup>; that under these rules if there is a request that has a zoning change component (such as the John Blair request) there would be a general legislative hearing; that said hearing would have a time limit of one (1) hour (i.e. 30 minutes for proponents in support and 30 minutes for those in opposition, three minutes per speaker); that the evidentiary portion would follow next in the hearing process; that the evidentiary segment is conducted much like court (i.e. interested party, the county, and someone who has interest in the property and is a nearby or an adjacent landowner who would be impacted by the development); and that that the decision made by the Board of Commissioners on these items is based on the competent evidence presented.

Discussion followed. Some specifics noted for Planning Board members were, 1.) should attend public hearings, 2.) use their own discretion, and 3.) trust the process. Mr. Megginson stated that Planning Board members could cross examine at the public hearing by way of the County Commissioners; that questions should be directed to the Chairman; that the Commissioners are interested in reconsidering going to conditional zoning; and that his preference would be to wait until after the elections before sending any further recommendations on to the Commissioners. It was the consensus of the Board to postpone this issue until after the primary elections are held.

B. Election of Planning Board Vice-Chair

Chairman Eliason opened the nominations for the office of Planning Board Vice-Chair.

Mr. Wilson nominated Ms. Andrews. Ms. Andrews declined the nomination but expressed her appreciation.

Ms. Andrews nominated Mr. Wilson. Following discussion Mr. Wilson withdrew his nomination and Ms. Andrews withdrew her nomination.

Mr. Wilson nominated Mr. McBee. There were no other nominations from the Board. The vote was unanimous for Mark McBee to serve as Planning Board Vice-Chair.

- X. NEW BUSINESS:
  - A. Planning Director's Report
    - a. May Planning Board Meeting

Mr. Megginson reminded Board members that next month's Planning Board meeting would be held on **Monday, May 1, 2006** due to elections and that we would be meeting here in this same building. (i.e. auditorium of the Cooperative Extension Building).

- B. Planning Board Member's Report

No reports were submitted.

- XI. ADJOURNMENT: There being no further business the meeting was adjourned at 8:50 p.m.

\_\_\_\_\_  
Charles Eliason, Chair

\_\_\_\_\_  
Date

Attest:

\_\_\_\_\_  
Kay Everage, Secretary to the Board

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Date