

Chatham County Planning Board Minutes April 7, 2015



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
Bill Arthur
Brian Bock
Stacey Curtis
Jim Elza
Barbara Ford
Gene Galin
Tony Geata
George Lucier
Cecil Wilson

Absent:

Caroline Siverson

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:

Chair Copeland delivered the invocation and afterwards the Chairman invited everyone to stand and recite the Pledge of Allegiance.

II. CALL TO ORDER:

Chair Copeland called the meeting to order at 6:30 p.m.

III. DETERMINATION OF QUORUM:

The clerk stated that a quorum was present to begin the meeting (10 members present)

IV. APPROVAL OF AGENDA:

See Item V. below.

V. APPROVAL OF CONSENT AGENDA:

Minutes: Consideration of a request for approval of the March 3, 2015 Planning Board minutes.

One minor change was suggested and board members had no objections to above items IV. and V. and were considered approved as submitted.

VI. PUBLIC INPUT SESSION:

Wayne Sears, 774 Copper Mine Dr., Sanford, NC, spoke in opposition of zoning the unzone areas of the county.

Karl Ernst, 711 Red Oak Dr., Siler City, NC, spoke in opposition of zoning the unzone areas of the county.

VII. SUBDIVISIONS:

1. Request by F-L Legacy Owner, LLC for subdivision preliminary plat approval of The Legacy, Phase 5A, consisting of 57 lots on 21.86 acres, located off S. R.1716, Big Woods Road, Williams Township, parcel #17378.

Ms. Richardson reviewed the agenda notes for the preliminary plat approval of The Legacy, Phase 5A. The Legacy at Jordan Lake Subdivision was approved by the Board of County Commissioners on March 15, 2004 as a Planned Unit Development for a cluster development. Modifications were made to the plan in 2005 to add 50.6 acres and change the number of lots to 463. The project is approved for 463 lots on 626 acres with an amenity center. Phase One received final plat approval in December, 2005 for 105 lots. Phases Two and Three, consisting of 114 lots received preliminary / final plat approval in 2006 (54 lots in Phase Two and 60 lots in Phase Three). In 2011, the developer submitted a request to the Board of County Commissioners to relinquish the final plat approvals for Phases Two and Three (undeveloped); to recombine the 114 lots with the remaining undeveloped portion of the property into one parcel of land containing 402 acres; and to allow Phases Two and Three to revert to their approved preliminary plat status as of November 20, 2006. The BOC approved the request on November 7, 2011. The Resolution Accepting the Voluntary Relinquishment of Final Plat Approvals of The Legacy at Jordan Lake, Phases Two and Three is recorded in Book 1593, Page 272. The recorded recombination plat can be viewed at Plat Slide 2011, Pages 199 & 200 and at Plat Slide 2012, Page 10. The Resolution stated that the recreation fees and the water availability fees previously paid by the developer would be retained by the county and credited toward any similar fees incurred by the developer in future submittals until December 31, 2015 or any later date required by an amendment to the Permit Extension Act.

Status of project to date:

--Phase 1 consisting of 105 lots received final plat approval in 2005

--Phase 2 consisting of 54 lots received final plat approval in 2013

--Phase 3 has preliminary plat approval

--Phase 4, 5, & 6 have sketch plan approval

--Phase 4A will be reviewed by the Board of Commissioners for preliminary plat approval on April 20, 2015.

As part of a 2014 CUP revision, the final plat sunset date for all phases is December 31,

2020. The Phase 5A layout conforms to the revision to the CUP approved in 2014.

Roadways within Phase 5A will be private, with a 50 foot wide right-of-way. The roadways will be paved to the NCDOT standards, but not reviewed and approved by NCDOT. The roads will be privately maintained. Hidden Bluff Drive will provide access to the balance of Phase 5 at a later date.

Other agency permits as required for preliminary plat submittal have been received as follows:

Chatham County Soil and Sedimentation Control	Erosion and Sedimentation Control Plan	January 5, 2015
NCDENR	Water Main Extension	January 21, 2015
NCDENR	Authorization to Construct	January 21, 2015
NCDENR Extension Permit	Wastewater Collection System	March 10, 2015

This project pre-dates the County Stormwater Ordinance. Per Mark Ashness, P. E., the project does have wet or dry stormwater controls at all release points handling the first ½" of impervious (with a 2-5 day drawdown).

Per the engineer, there are no cemeteries or historical structures, i.e. buildings, chimneys, fences, etc, 50 years or older located in Phase 5A.

The road names *Legacy Falls Drive South*, *Winding Creek Loop*, and *Hidden Bluff Drive* have been approved by the Emergency Operations Office for submittal to the Board of Commissioners for approval.

There is a stream located within the Phase 5A common area and a 100 foot wide, undisturbed buffer has been placed along the length of the stream. The buffer is measured from the bank of the stream landward.

The Fire Marshal has reviewed the plans for Phase 5A regarding access for emergency vehicles and found the plans acceptable based on road widths. The development is a gated community and the fire department has been provided access if the gate is locked.

The TRC met on March 18, 2015 to review the plans for Phase 5A. There were no concerns from staff.

The area between Lot 350 and Lot 373 will be common area and will provide access for the community to the amenity area. A 50 foot wide perimeter buffer, as required, is shown along the common property line with parcel #63520. The plat meets the requirements of the Subdivision Regulations for preliminary plat review. If there are no concerns from the Planning Board on the issue, the developer has requested that the

preliminary plat approval of Phase 5A be placed on the April 20, 2015 Board of Commissioners agenda for action. This will allow Phase 4A1 and Phase 5A to both be reviewed and acted upon at the same meeting.

The Planning Department recommends approval of the road names, *Legacy Falls Drive South*, *Winding Creek Loop*, and *Hidden Bluff Drive* and recommends approval of the request for preliminary plat approval of “The Legacy, Phase 5A” with the following condition:

1. Language to be added to the final plat regarding a public water line easement within the private road right-of-way.

Mark Ashness, P.E. was present on behalf of the applicant and spoke briefly of the lot overlay of the previous to present.

Motion to approve:

Mr. Lucier made a motion; seconded by Mr. Arthur to approve as submitted with one condition as follows:

1. Language to be added to the final plat regarding a public water line easement within the private road right-of-way.

The motion passed unanimously.

2. Request by Lee Bowman, Project Manager, on behalf of NNP Briar Chapel, LLC for subdivision preliminary and final plat approval of Briar Chapel Development – SD North, consisting of 4 non-residential lots on 19.02 acres located off US Hwy 15-501 and Briar Chapel Pkwy, Baldwin Township, parcel #85632.

Ms. Richardson reviewed the agenda notes for preliminary and final approval of Briar Chapel SD North. The 2012 revision to the Conditional Use Permit, Item # 5, Commercial Uses states *“The commercial component of the development shall be limited to 510,000 square feet in the locations shown on the Revised Master Plan, (see Plan posted to webpage), and the uses allowed within the development shall be all those uses now allowed or later added as allowed in the December 2008 Zoning Ordinance under Section 10.13 Table 1: Zoning Table of Permitted Uses under the Zoning District denominated as “O/I,” “B-1,” “NB,” “CB,” and “RB.” Irrespective of whether such uses are shown as permitted or as requiring a conditional use permit, all such uses shall be deemed allowed as of right within the Briar Chapel development. Applicant has agreed to this specification of allowed uses in order to bring clarity to the scope of allowed commercial uses with the express agreement of the County that the district-specific restrictions regarding maximum size of buildings and setbacks shall not apply. Signage for the commercial uses shall comply with the Design Guidelines from the original 2005 approval and the signage provisions set forth in the Chatham County Zoning Ordinance in effect on February 15, 2005 (original approval date). Commercial components of the Briar Chapel Development shall be accessible via public sidewalks, greenways, paths or trails. Pedestrian Access to SD North is substantially complete. Such pedestrian access shall be made to SD West.”*

Per Section 4.4B, Item 14, of the pre-2008 Subdivision Regulations, “Plats of major subdivisions which do not include new roads may be considered for preliminary and

final approval simultaneously by each Board.” The request is for approval of the creation of the lots only. The uses proposed are not known at this time. Permitted uses are uses listed in the 2008 Zoning Ordinance list of permitted uses in the O/I (Office and Institutional); B-1 (Business); NB (Neighborhood Business); CB (Community Business); and RB (Regional Business) districts.

Per Section 6.4 C (3), states in part “Properties reserved or plated for commercial, institutional or industrial purposes shall be adequate in size to provide for the type of use and development contemplated.....Land subdivided for commercial, institutional or industrial use shall follow the major subdivision procedure with preliminary plat review by the Board of County Commissioners....”

SD North Commercial area will be accessed off both Hwy 15-501 and Briar Chapel Parkway. A Commercial Driveway Permit and Encroachment Agreement have been issued by NCDOT for the entrance off Hwy-15-501. Per Richard Adams, PE, Kimley-Horn and Associates, Inc., NCDOT agreed that no driveway permit would be required for the entrance off Briar Chapel Parkway since that portion of roadway has not yet been accepted for maintenance and that NCDOT will accept that driveway when they actually adopt the street for maintenance. No new public roads are being constructed to serve the site. The internal roadway serving the lots will be a 40 foot wide private right-of-way along with 20 foot wide private access and utility easement. See the final plat and/or the site plan for the road layout. Maintenance of the private R/W will be the responsibility of the developer and/or Briar Chapel Commercial Association, Inc.

Section 6.4C (3) requires that the subdivider can demonstrate the following:

- A. A site arrangement that prevents undue interference with through traffic.
- B. An integrated parking area.
- C. An insulation against any adverse effect on any present or future adjacent residences.
- D. A parcel size sufficient in area to allow future expansion.
- E. A plan that demonstrates that the first ½ inch of stormwater runoff will be managed on site, if more than six (6) percent of the lot area is covered with impervious surfaces such as buildings, parking, and drives.

Attachment # 3 is a general site plan prepared to demonstrate that the proposed lots will have adequate access and adequate internal traffic flow; that there is sufficient area for parking; that the 100’ undisturbed perimeter buffer along the common property line with parcel #2752 and the 50’ viewshed buffer will insulate against any adverse effect on present or future owners; and that the parcel size will allow for future expansion. Briar Chapel has a Stormwater Management Plan prepared by McKim & Creed, Inc. and approved by NCDENR-DWQ that is designed to accommodate the residential and commercial development. The maximum Impervious surface area for both residential and commercial development is limited to 24% overall. The maximum impervious surface coverage of SD North is

proposed to be approximately 1% of the overall impervious surface coverage of the development. The cumulative coverage for the overall development is 21.38% per Chris Seamster, RLA, with McKim & Creed. Prior to obtaining building permits on any of the lots, the owner/developer will present a specific site plan for SD North for review by the Zoning Administrator and the Appearance Commission. The site plan will be reviewed for adequate landscaping, conformance with the Chatham County Lighting Ordinance, adequate parking for the proposed uses, signage, etc.

Agency permits required for preliminary plat approval have been received.

County water is available and will be utilized. Sewer service will be provided by the Briar Chapel WWTP. Permits for the water main extension and authorization to construct and permit for the wastewater collection system extension have been issued.

Per the engineer, there are no cemeteries or structures eligible for the National Register within the project area. There was a gravestone for Lizzy Cheek located on the SD North property along with the Cheek house. The Cheek house was greater than 50 years old, but not considered eligible for the National Register. Per the developer, the house has been salvaged primarily for its doors and windows. The developer has worked with Bev Wiggins, Chatham County Historical Association, to determine if the remains of Lizzy Cheek were buried on the property or if they had been moved sometime in the past. Per a report by Terri Russ with Environmental Services, Inc., dated November 7, 2014, the Lizzy Cheek grave (31CH806**) has been moved from the site on Briar Chapel Property to the Maplewood Cemetery in Durham and that a second grave marker is located within the cemetery. Per the report, it is typical to inter the original grave markers with the remains; however, if the original grave marker was particularly large, they may not have been able to re-bury it with the remains. The headstone was left on the Briar Chapel property due to the size of the stone and the difficulty of removal. Briar Chapel contacted members of the Cheek family to see if they had any interest in moving the stone, but they did not. Per the developer, the stone will be treated as typical rock waste in the earthwork operation.

The road name 'Falling Springs Drive' has been reviewed and by the Chatham County Emergency Operations office for submittal to the Board of Commissioners for approval.

There is a stream located on the property that requires a 50 foot wide undisturbed buffer along with a 10 foot wide no build area as shown on the subdivision map and the site plan map. As shown on the maps, there will be a crossing of this water feature to access the Future Development area. A modification to the 2006 404 stream impact permit issued by the Army Corp of Engineers and subsequent 2007 modification was issued on August 21, 2009 for modifications to address impact amounts and location changes associated with roadway crossings in and near the development. Also, on August 31, 2009 there was an approval of a 401 Water Quality Certification with Additional Conditions - Modification to address this stream crossing.

The Fire Marshal has reviewed the plan for SD North and has stated "As the actual structure locations are not depicted on the plan, it is difficult to address whether the fire hydrants will be located in accordance with the North Carolina State Fire Prevention

Code and in locations suitable for use by the fire department. It is also important to note, should a structure be built with an automatic fire suppression sprinkler system, it is important that a fire hydrant be located no more than 50' from the automatic fire suppression sprinkler system fire department connection." Prior to a building permit being issued for a structure, the Fire Marshal will have to review and approve the plan which will include fire hydrant placement and emergency vehicle access to the structure.

Staff recommends that prior to the Mylar being recorded in the Office of the Register of Deeds, that the following changes be made:

--add names with deed book and page reference of adjacent property owner(s) of record across Hwy 15-501,

--Change Note # 7 under Survey Notes to read "Prior reference to this monument as a 'gravesite' or 'grave marker' have been removed with the permission of the Chatham County Planning Department based upon the conclusion that the remains have been relocated per report dated November 7, 2014 by Terri Russ, Environmental Services, Inc. in reference to Briar Chapel-Lizzie Cheek Grave (31CH806**)."

The Planning Department recommends approval of Briar Chapel Development – SD North with the following conditions:

1. Add names with deed book and page reference of adjacent property owner(s) of record across Hwy 15-501.

2. Change Note # 7 under Survey Notes to read "Prior reference to this monument as a 'gravesite' or 'grave marker' have been removed with the permission of the Chatham County Planning Department based upon the conclusion that the remains have been relocated per report dated November 7, 2014 by Terri Russ, Environmental Services, Inc. in reference to Briar Chapel-Lizzie Cheek Grave (31CH806**)."

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

Mr. Nick Robinson, Attorney, and Chris Seamster, P.E. spoke briefly on behalf of the applicant.

Board discussion followed.

Motion to approve:

Mr. Wilson made a motion; seconded by Mr. Bock to approve as submitted with the following conditions:

1. Add names with deed book and page reference of adjacent property owner(s) of record across Hwy 15-501.

2. Change Note # 7 under Survey Notes to read “Prior reference to this monument as a ‘gravesite’ or ‘grave marker’ have been removed with the permission of the Chatham County Planning Department based upon the conclusion that the remains have been relocated per report dated November 7, 2014 by Terri Russ, Environmental Services, Inc. in reference to Briar Chapel-Lizzie Cheek Grave (31CH806**).”

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

Mr. Arthur had concerns with the roadway on 15-501North.

The motion passed unanimously.

VIII. ZONING AND ORDINANCE AMENDMENTS:

1. A legislative public hearing request for a proposed county-initiated text amendment to the Chatham County Zoning Ordinance Section 18, Board of Adjustment, to update the ordinance in response to statutory changes.

Ms. Pace updated board members of the previous agenda notes. She stated this item was before the board in February and the board had some questions for the Board of Commissioners’ March 16, 2015 meeting. Sections 18.1 and 18.2 had changes and these items will need to be modified because the commissioners by unanimous vote will allow residents from the ETJ to serve on the Board of Adjustment, excluding residents from the municipalities from serving on the Board. Applications for the Board of Adjustment are currently being accepted and the appointments will be discussed in April.

All proposed text amendment applications must address the following items outlined within the Chatham County Zoning Ordinance, Section 19. These items are addressed below:

ITEM #1- The alleged error in this Ordinance, if any, which would be remedied by the proposed amendment with a detailed explanation of such error in the Ordinance and detailed reasons how the proposed amendment will correct the same.

The amendments serve to update Section 18 Board of Adjustment to align with recently modified state statutes NCGS § 153a-345.1 and 160-388.

ITEM #2- The changed or changing conditions, if any, in the area or in the County generally, which make the proposed amendment reasonably necessary to the promotion of the public health, safety and welfare.

The amendments provide for consistency with state statutes, which are both reasonable and promote public health, safety and welfare.

ITEM #3- The manner in which the proposed amendment will carry out the intent and purpose of the adopted Land Use Plan.

The amendments assist the *Users* of the adopted Land Conservation and Development Plan, specifically Elected Officials, Appointed Boards, and County Staff, to appropriately make recommendations and decisions on land use issues.

ITEM #4- All other circumstances, factors and reasons which the applicant offers in support of the proposed amendment.

The proposed amendments will create consistency with state law regarding Board of Adjustment procedure and regulations.

Planning Staff recommends approval of the proposed text amendments. This is the third Planning Board meeting since this was initially discussed therefore a recommendation must be made at this meeting.

Board discussion followed.

Motion to approve:

Mr. Arthur made a motion; seconded by Ms. Curtis to approve as submitted with changes to be made by the county attorney. (8-1 Wilson against and Galin abstained).

Consistency Statement

The amendments assists the *Users* of the adopted Land Conservation and Development Plan, specifically Elected Officials, Appointed Boards, and County Staff, to appropriately make recommendations and decisions on land use issues consistent with local ordinances, policies, and state law.

Motion to approve:

Mr. Lucier made a motion; seconded by Mr. Arthur to adopt as submitted (8-0 Wilson and Galin abstained).

IX. NEW BUSINESS:

Mr. Geata briefly introduced himself.

X. PLANNING DIRECTOR'S REPORTS:

1. Minor Subdivisions / Exempt Maps
2. U. S. Census Update

XI. BOARD MEMBER ITEMS:

1. Land Use Sub-Committee Update

Mr. Elza stated that a draft of the RFP was ready. Mr. Sullivan briefly reviewed the drafted RFP and stated the RFP was drafted into two phases.

Board discussion followed

Motion to approve:

Mr. Elza made a motion; seconded by Mr. Arthur to forward the draft RFP to the Board of Commissioners. Motion failed 6-4 (Copeland, Wilson, Curtis, Ford, Galin, and Bock voting against).

Board discussion followed.

2. Alternatives to Open Use Zoning Sub-Committee Update
Mr. Lucier briefly updated the board on the sub-committee meeting that was held.

Board discussion followed.

XII. ADJOURNMENT:

There being no further business, the meeting adjourned at 8:31 p.m.

_____/_____
B.J. Copeland, Chair Date

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