

Chatham County Planning Board Minutes May 5, 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
Stacey Curtis
Jim Elza
Barbara Ford
Gene Galin
George Lucier
Caroline Siverson
Cecil Wilson

Absent:

Brian Bock
Tony Geata

Planning Department:

Jason Sullivan, Planning Director
Hillary Pace, Planner II
Kimberly Tyson, Clerk to the Board
Kay Everage, Temporary Staff Support

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.

Temporary Staff Support:

Chair Copeland acknowledged Kay Everage as acting Clerk to the Board. He stated Ms. Everage retired from the Planning Department but is currently providing staff support during the temporary absence of Lynn Richardson.

II. CALL TO ORDER:

Chair Copeland called the meeting to order at 6:32 p.m.

III. DETERMINATION OF QUORUM:

The clerk stated that a quorum was present to begin the meeting (8 members were present at this time).

IV. APPROVAL OF AGENDA:

There were no comments or requests for changes to the Agenda.
See vote below, Item V.

Cecil Wilson arrived (6:33 p.m.).

V. APPROVAL OF CONSENT AGENDA:

Minutes: Consideration of a request for approval of the April 7, 2015 Planning Board minutes.

No changes were made to the minutes.

Mr. Lucier made a motion; seconded by Mr. Elza to approve above Items IV. and V. as submitted. There was no discussion and the motion passed unanimously.

VI. PUBLIC INPUT SESSION:

There were no requests to speak at this time.

VII. SUBDIVISIONS:

1. Request by Karen Kemerait, Attorney-at-Law, on behalf of Contentnea Creek Development Co., for a twenty-four (24 month) extension of the validity of the preliminary plat approval for the Cooper Subdivision to extend the preliminary plat expiration date from June 20, 2015 to June 20, 2017. Cooper Subdivision is off Hatley Road and joins proposed Copper Ridge Subdivision.

Mr. Sullivan reviewed the agenda notes for this request as follows.

History:

October 2006: Approval by the Board of County Commissioners to rezone 130 acres from RA-5 to RA-90 (now R-2) and for a Conditional Use RA-90 Permit for a 63 lot single family residential subdivision with site plan. There were 17 conditions of approval. (Note: Conditions are listed in tonight's agenda packet).

November 2007: Approval by the Board of County Commissioners for subdivision preliminary plat approval for Phase I, consisting of ten (10) lots on 23 acres with revisions to the balance of the master plan (sketch design) and approval of a development schedule as follows:

- **Phase I (10 lots Prel. submitted by Oct 2007)- Complete construction +/- May, 2008**
- **Phase II (24 lots Prel. approval by July 2008)- Complete construction +/- Jan, 2009**
- **Phase III (26 lots Prel. approval by Oct, 2008)- Complete construction +/- May, 2009**

During discussion of the Phase I preliminary design request with the Board of County Commissioners, the developer's attorney stated that the developer had voluntarily agreed to perform an Environmental Impact Assessment on the balance of the property, Phases II and III. This was not made a condition of approval.

May 2008: Request by Karen M. Kemerait, Attorney with Blanchard, Miller, Lewis & Styers, P. A. on behalf of Contentnea Creek Development Co. for an approval of a revision to the existing development schedule for Cooper Subdivision.

Ms. Kemerait's request letter stated that "Specifically, Contentnea Creek is considering redesigning the size and layouts of the lots to create a subdivision with larger and fewer lots than had been previously planned." During discussion

with the Board, Ms. Kemerait stated that the developer was committed to performing an Environmental Impact Assessment of the property and was concerned about being able to meet the preliminary plat submittal deadlines for Phases II and III due to the amount of time necessary to complete an EIA along with the amount of time needed for review by Chatham County. The developer wanted to have sufficient time to complete this process, work with the recommendations of the ERB and present a preliminary plan to reflect changes based on the EIA. The Board of Commissioners approved the request as follows:

- *Phase I Submitted October, 2007 18 months after preliminary plat approval*
- *Phase II Submitted by April, 2009 18 months after preliminary plat approval*
- *Phase III Submitted by April, 2009 18 months after preliminary plat approval*

April 2009: Applicant requested a revision to the Conditional Use Permit for the Cooper Property to revise Condition # 4 and Condition # 10 of the zoning approval. The Planning Board recommended approval of the zoning request and the Board of Commissioners approved the zoning request on 4/20/2009.

Condition #4 now reads "Public rights-of-way shall be established and dedicated by the time of final plat approval for future public street access and utility connections to adjacent property to the west currently owned by Chatham Land & Timber". Condition # 10 now reads "The site shall be developed substantially in accordance with the plans revised and dated 3/18/2009."

The Board of Commissioners also approved a request for a revision to the approved preliminary plat for Phase I; a revision to the development schedule for Phase I; and preliminary plat approval for Phases II and III, consisting of 43 lots (total Phases I, II, & III) on 130.48 acres. An EIA was prepared by Burdette Land Consulting, Inc. and was used as a design tool to redesign the entire subdivision to lessen impacts to the property, i.e., reduced the number of lots from 63 to 43; and elimination of five (5) stream crossings. A major change was the elimination of crossings of Parker's Creek except for one shared driveway for access to two lots. All the water features were buffered per the revised Watershed Protection Ordinance including ephemerals and wetlands. The expiration date of the preliminary plat for all three phases would have been October 20, 2010.

The Permit Extension Act of 2009, Senate Bill 831 plus House Bill 683 extended the preliminary plat expiration date to June 20, 2013.

December 17, 2012: Prior to the June 20, 2013 expiration date, the developer requested a twenty-four month extension of the preliminary plat approval for Cooper Subdivision, to extend the preliminary plat expiration deadline from June 20, 2013 to June 20, 2015. The Board of Commissioners approved a request on December 17, 2012.

Mr. Sullivan reiterated that the request before the Board tonight is for a 24 month extension of the preliminary plat expiration date to allow the final plat submittal date to be extended from June 20, 2015 to June 20, 2017; and that Unless the Board of Commissioners grants the request for an extension, the subdivision approval will expire on June 20, 2015 and any further development of the property will be reviewed under the current Subdivision Regulations, Watershed

Protection Ordinance, Erosion and Sedimentation Ordinance, Stormwater Ordinance, etc. No work has currently commenced on the property.

In the previous discussion with the Board, the developer stated that it is their intent to extend the county water line from Windfall Subdivision (off Big Woods Road) along Hatley Road to the Cooper Subdivision, and to provide utility easements to adjoining properties as required, and to bring the private portion of Hatley Road up to the NCDOT standards. Per an e-mail from Larry Bridges, Public Utilities Director, dated April 15, 2015, "The construction and completion of this subdivision is critical to the improvement and overall functionality from a flow and pressure standpoint of Chatham County's North Water System by connecting the water line down Mt. Gilead Church Rd. over to the Windfall Subdivision off of Big Woods Rd. This would also maintain optimal water quality as well. Chatham County Public works is strongly in favor of this extension." See attachment # 3. Water availability fees in the amount of \$150,000.00 (\$3500.00 x 43 lots) have been paid to Chatham County. Per the current extension request, the developer is still committed to extending the water line from Windfall Creek along Hatley Road to the Cooper Subdivision.

The adjacent property to the west owned by Chatham Capital, LLC is currently proceeding through the major subdivision process to create Copper Ridge which will have 50+/- residential lots and will be extending the county water line along Mt. Gilead Road south to serve their development. Per Mr. Bridges e-mail, once the Cooper Subdivision is completed with a water line extension from Windfall Creek Subdivision/Big Woods Road and a connection is made to the waterline that will have been provided by Copper Ridge, the overall functionality of the North Water System will be improved.

Condition # 3 of the Conditional Use Permit states, "The owner/developer shall provide extension and installation of the Chatham County Water System to this property and provide easement access to adjacent properties for future connection to the water system." The 2009 preliminary plat shows a utility easement and public road access being extended to the adjacent property to the west now known as Copper Ridge to tie into their public road and waterline. Since Copper Ridge is now reviewed under the current Subdivision Regulations and Watershed Ordinance, the riparian buffer widths and types of features required to be buffered has changed and the previous roadway and utility easement location may not work due to a stream feature on Copper Ridge that now requires an undisturbed buffer.

The permits required to be obtained in 2008 and 2009 for preliminary plat approval of Phases I, II, & III are listed in the request. The engineer, John Harris, P.E., has provided a spreadsheet listing the permits and their current status. (Note: Spreadsheet provided in tonight's agenda notes as attachments # 4). Per the request letter, Contentnea will obtain all necessary extensions of the permits prior to submitting the final plat. Staff recommends that prior to any land disturbing activity, any permits needing to be renewed, revised, or reissued be provided to staff.

Mr. Sullivan noted that staff did not make a recommendation on this extension request since it is a policy decision by the Board of County Commissioners. He stated that if the Commissioners approve the request the Planning Department staff recommends the following two (2) conditions:

1. *Prior to any land disturbing activity, any permits needing to be renewed, revised, or reissued shall be obtained and provided to staff.*
2. *That Contentnea Creek Development, LLC work with the developer of Copper Ridge, Chatham Capital, LLC, to design the public road and public utility easement location(s) to provide interconnection between the two developments that meets the current standards and that the Public Works Director approve the location of the public utility easement and that a revised NCDOT road plan/permit be provided to staff, if necessary.*

Some matters discussed by the Board were:

- waterlines; i.e. cost responsibility and adequate connections
- well contamination, and
- S.T. Wooten Company's accountability for waterline connection fees (see motion below)

Karen Kemerait, Attorney-at-Law and John Harris, P.E., engineer, were present representing the applicant. Both spoke briefly regarding the extension request.

Motion to Approve:

Mr. Elza made a motion; seconded by Mr. Galin to approve the request as submitted for a twenty-four (24 month) extension of the validity of the preliminary plat approval for the Cooper Subdivision to extend the preliminary plat expiration date from June 20, 2015 to June 20, 2017, with two (2) conditions (recommended by staff) as noted above.

Discussion followed regarding:

- a. Why the developer is reluctant to start building since there is considerable development happening around the county; and
- b. Does the developer intend to work with the Copper Ridge developers regarding water lines?

Mr. Harris addressed these issues.

Vote on Motion:

The motion passed unanimously to approve the extension request as submitted with the two (2) conditions recommended by staff and noted above as follows:

1. *Prior to any land disturbing activity, any permits needing to be renewed, revised, or reissued shall be obtained and provided to staff.*
2. *That Contentnea Creek Development, LLC work with the developer of Copper Ridge, Chatham Capital, LLC, to design the public road and public utility easement location(s) to provide interconnection between the two developments that meets the current standards and that the Public Works Director approve the location of the public utility easement and that a revised NCDOT road plan/permit be provided to staff, if necessary.*

S.T. Wooten Company

Board members discussed the following:

- ST Wooten site has on-site contamination – NCDOT has been working for several years on remediation
- Time extension request for a subdivision on Hatley Road where the developer will extend county water to serve the project
- A pending subdivision request for an adjoining development that will connect to county water at Mt. Gilead Church Road
- Connection of these two will complete a loop in the water system between Mt. Gilead Church Road and Big Woods Road
- Request that parties involved in remediation efforts partner with the developers to extend the system to serve all parties near the contaminated site (assuming there would be enough water pressure to make it all work)

Motion:

Following discussion, Mr. Lucier made a motion; seconded by Mr. Elza that the Planning Board **ask** the Board of Commissioners to consider the water situation at the ST Wooten facility on Sugar Lake Road (per above discussion). The motion passed 8-0-1 with all Board members present voting in favor of the motion; except Mr. Galin who abstained.

VIII. NEW BUSINESS:

No issues were discussed.

IX. PLANNING DIRECTOR'S REPORTS:

1. Minor Subdivisions / Exempt Maps

Mr. Sullivan stated that this update was included in tonight's agenda packets.

2. North Carolina General Assembly

Chair Copeland stated that last week the House passed a bill that would limit the buffers on streams to 50 feet and would require all jurisdictions to comply with these buffer standards or otherwise seek approval from the State for increased buffers locally; and that he wasn't sure if the bill had passed the Senate.

Mr. Sullivan addressed the issue.

X. BOARD MEMBER ITEMS:

1. Land Use Subcommittee Update

Chair Copeland stated that during last month's Planning Board meeting the Board received final report from this subcommittee; that the Board wanted to defer sending the final report to the Commissioners until tonight's meeting to allow other Chatham County departments' adequate time to review the document and submit comments.

Motion:

Mr. Elza made a motion; seconded by Mr. Arthur that the final report be forwarded to the Chatham County Commissioners for their consideration. Discussion followed.

Ms. Pace stated that changes made from comments of the Land Use Subcommittee members (meeting March 10, 2015) were highlighted in yellow on the final report included in tonight's agenda packet. She reviewed the following comments collected from various Chatham County Department Heads since the last meeting of the subcommittee:

- **Sheriff's Office**- The Sheriff's Office indicated that the draft RFP does not touch on public safety operations. Staff is in the process of arranging a meeting with CCSO staff for further discussion.
- **Emergency Operations**- A meeting with EOC staff will be arranged for further discussion.
- **Public Health**- Staff provided comment, expanding "Public Health Considerations" under Scope of Services, Community Profile (p.2) to include the entire public, including vulnerable populations (aging, minority, limited English proficiency), mobility, obesity, and health impacts of potential policies and projects. Staff also included a comment to coordinate with Chatham County Schools, including school siting.
- **Chatham County Manager's Office**- A fiscal impact component of proposed plan will be added to the scope. The intention is to work with county staff to suggest a methodology for determining the fiscal impact of various land use scenarios.
- **Chatham County Finance**- The Finance Office is continuing to work with staff to ensure compliance with procurement laws and methodology.
- **Chatham County Libraries**- The Libraries have provided a comment, requesting libraries be considered within the Desired Plan Elements section.
- **Chatham Information Technology**- Provided comment regarding the technology needs of the county as it relates to a comprehensive planning approach. Planning staff will meet with IT staff for further discussion.
- **Central Permitting**- Central Permitting provided input, citing that accurate population projections will assist in projecting the number of residential permits to expect in addition to staffing expectations.
- **Council on Aging**- The COA provided planning staff with the agency's Strategic Initiative and county-wide population data provided by Chatham County Public Health.

Ms. Pace noted that no comments were received from the Department of Social Services.

Board discussion followed. Mr. Wilson voiced concern regarding Page 4 of the document, #3, last bullet that states:

3. Development of a Public Engagement Plan

- The public engagement plan should include a grass-roots approach to the development of the plan that will include website outreach via the county website, social media, electronic surveys, info booth at local events, and other forms of community outreach to meet the objective.

Ms. Pace addressed this concern.

Vote on Motion:

Chair Copeland stated a motion/seconded was on the floor to forward the final report on to the County Commissioners.

The motion passed 7-1-1 with all Board members present voting in favor of the motion; except Mr. Wilson who voted against the motion; and Mr. Galin who abstained. Mr. Galin noted that his abstention was due to various technical questions.

2. Alternatives to Open Use -Zoning Subcommittee Update

Mr. Lucier distributed copies of the April 21, 2015 Minutes titled, "Subcommittee Meeting – Subcommittee on Alternatives to Open Use Zoning". A copy is filed in the Planning Department. Mr. Lucier reviewed said minutes. He stated a next step would be to form two (2) subcommittees from this subcommittee to:

- a.) put together the 'pros and cons' of a number of different zoning options (Members: George Lucier, Bill Arthur, Gene Galin and Jason Sullivan); and,
- b.) that the second Subcommittee would put together a 'facts sheet' on various zoning questions from county citizens. (Members: Caroline Siverson, George Lucier and Jason Sullivan)

Discussion followed regarding the basis for the above subcommittees.

3. Joint Plan Committee

The Board discussed recommending to the Board of Commissioners the idea of an on-going joint planning commission between Chatham County, Pittsboro, Siler City and the municipalities of Goldston and Cary.

Commissioner Hales was present and stated that county infrastructure needs are very high and that the population of Chatham County is estimated to possibly double in the next thirty years.

4. Biocenosis LLC

Mr. Elza stated that he recently attended a presentation by this company (i.e., soils, forestry, geology); and that he would like to ask them to speak at a Planning Board meeting.

Chair Copeland stated that he and Mr. Sullivan would follow-up with Biocenosis LLC on a possible presentation to the Planning Board.

XI. ADJOURNMENT: There being no further business, the meeting adjourned at 8:04 p.m.

_____/_____
B.J. Copeland, Chair Date

Attest: _____/_____
Kay Everage, Temporary Staff Support Date