



Chatham County Planning Board Minutes July 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
Cecil Wilson, Vice-Chair
Bill Arthur
Brian Bock
Stacey Curtis
Jim Elza
Barbara Ford
Gene Galin
Tony Geata
George Lucier
Caroline Siverson

Absent:

Other: Diana Hales, County Commissioner Liaison

Planning Department:

Jason Sullivan, Planning Director
Lynn Richardson, Subdivision Administrator
Kimberly Tyson, Clerk to the Board

- I. INVOCATION AND PLEDGE OF ALLEGIANCE:
Vice-Chair Wilson 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 a quorum was present to begin the meeting (11 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.
- V. APPROVAL OF CONSENT AGENDA:
Minutes: Consideration of a request for approval of the June 2, 2015 Planning Board minutes.

Item IV. Approved

Item V. Minor changes made to the Gun Range Ordinance discussion.

Motion:

Mr. Geata made a motion, seconded by Ms. Curtis to remove last sentence in the Gun Range Ordinance discussion. Minutes approved as modify, motion passed unanimously (11 Board members).

VI. PUBLIC INPUT SESSION: Fifteen-minute time of public input. Speakers limited to three minutes each.

Etsa Cohen, 688 Van Thomas Rd., Pittsboro, NC, Chair to Chatham County Agriculture Advisory Board. Ms. Cohen stated that she was there to address the continuing land use and zoning conversation that first started back in 2013. She thanked Chair Copeland, Jason Sullivan, Planning Director, and Hillary Pace, Planner II for attending the last Agriculture Advisory Board meeting where they provided specific information. Tandy Jones, Agriculture Advisory Board member was appointed to the zoning subcommittee and was instrumental in bringing their concerns to and from. Ms. Cohen stated she would like to see the conversations get beyond the “no zoning” and finally get to some specifics.

Ms. Cohen stated, “We would like to see these conversations get beyond the “no zoning”, and finally get to some specifics. Following a public hearing in Siler City regarding a quarry that was looking for permitting, the Siler City BOC denied the request, as they were asked to do by those families that would be effected by its operation. By either chance or design, there was zoning in place that permitted the Siler BOC to legally turn down the quarry. There is a lot to be learned”.

Agriculture and forestry are not subject to zoning rules, no one can tell us how or what to farm and we generally play nice with our neighbors, work out our differences. There seems to be an increasing amount of rhetoric from people that will not be affected by a lack of protection for those of us that farm and timber in unzoned areas of the county, that is bothersome. Ms. Cohen concluded, for unzoned areas in which we live, including myself, my neighbors, cheap land, free water, and no restrictions are one heck of a gift for anyone looking to exploit what this county has to offer. As a board we aren't recommending going forward with any particular option, we don't yet have enough information as to the real consequences of any of them, and it's a contentious discussion. We don't want that door closed, as given the difficulty of all of this, it may be a long time before it gets opened again.

Chair Copeland stated he received letter from Mr. Bruce Davis who wrote a fable titled “Keep your Stinking Land Use Planning Off my Property” but was in favor of protecting his land use. Chair Copeland also stated

Chatham County Board of Commissioners forward a petition, they received, in opposition of county wide zoning.

VII. PRESENTATION: Allison Weakley and Catherine Deininger

Ms. Weakley and Ms. Deininger spoke about a conservation plan, partnership, natural resources, water quality, Biodiversity and Wildlife Habitat Assessment, and Planning Tools for Town of Pittsboro.

VIII. SUBDIVISIONS:

1. Request by Lee Bowman, Project Manager, on behalf of NNP Briar Chapel, LLC for subdivision final plat approval of Briar Chapel Development – Phase 11 North and Granite Mill Boulevard realignment, consisting of 124 residential lots on 16.2 acres located off US Hwy 15-501 and Briar Chapel Pkwy, Baldwin Township, parcel #87090 and 89623.

Mr. Sullivan reviewed agenda notes for final plat approval of Briar Chapel Phase 11 North and Granite Mill Boulevard realignment. The request is a combination of two (2) previous preliminary plat approvals; Phase 11 consisting of 124 lots was a portion of the preliminary plat approval in November 2014 consisting of 200 lots and Granite Mill Boulevard realignment was July 2014.

Emergency Operations Office has approved the following road names Farmbrook Lane, Greenway Lane, Singing Wood Lane, Lantern Hill Trace, Noyace Lane, Stoney Gap Lane, Sunny Hill Lane, Fog Hollow Lane, Briar Hill Lane, Cedar Stand Trail and Wild Indigo Way.

A financial guarantee is being requested for the completion of required infrastructure. Per the engineer 51% of the infrastructure has been completed and additional work may be completed prior to final plat recordation. The contract and financial guarantee will require review and approval by the county attorney prior to final plat recordation. Grant Livengood, P.E., has certified that the roadways are accessible to emergency vehicles in a letter dated June 10, 2015.

The Planning Department recommends granting final plat approval of the request Briar Chapel Development – Phase 11 North for NNP-Briar Chapel, LLC, *consisting of 124 lots on 16.2 acres, and* Granite Mill Boulevard for NNP-Briar Chapel, LLC and approval of the road names Farmbrook Lane, Greenway Lane, Singing Wood Lane, Lantern Hill Trace, Noyace Lane, Stoney Gap Lane, Sunny Hill Lane, Fog Hollow Lane, Briar Hill Lane, Cedar Stand Trail and Wild Indigo Way; and granting approval of the request for a financial guarantee with the following two (2) conditions:

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

Mr. Nick Robinson, Attorney, and Chris Seamster, RLA were present and each spoke briefly.

Motion:

Mr. Wilson made a motion; seconded by Mr. Bock to approve as submitted. Mr. Lucier asked if this was going to change the original requirement of 2500 houses and wanted to know if this was part of the original design. Mr. Robinson stated in 2012 the master plans was amended to allow the lot sizes and overall there's 2500 maximum residential units on 1300+ acres. There was no discussion and the motion passed by vote of 10-1 (Elza against).

Meeting adjourned at 7:36 p.m. for Public Hearing

PUBLIC HEARING: Speakers limited to three minutes each

Public Hearing Item:

Request by Mark Ashness, P. E., CE Group, on behalf of Polk-Sullivan, LLC for subdivision First Plat approval of Seaforth Landing, consisting of 45 lots on 107.85 acres located off SR 1941, Seaforth Road, New Hope Township, parcel #17487.

Mr. Sullivan explained the four step process as follows:

Step One: Concept Plan - developer has a community meeting

Step Two: First Plat - Planning Board reviews the First Plat then goes to Board of Commissioners

Step Three: Construction Plan

Step Four: Final Plat Approval

Mr. Nick Robinson, Attorney, on behalf of Polk-Sullivan, LLC gave a brief summary of the proposed subdivision. Seaforth Landing has 45 lots on 107 acres, not designed to take advantage of maximum density allowed, lots average 2.2 acres with some lots up to 6 acres, and proposes ten percent impervious surface coverage which is under the maximum 24 percent. Mr. Robinson stated Mr. Mark Ashness, P.E., was present for any additional questions.

Community meeting was held the evening of March 10, 2015, for two hours at Bradshaw and Robinson, LLP, 128 Hillsboro St, Pittsboro, NC. Mr. Robinson stated the meeting was well attended and approximately ten people came. The concerns were: recreation, home sizes, lot sizes, septic questions, road conditions, pricing, and well drilling.

Leslie Booker, 2073 N. Pea Ridge Rd., Pittsboro, NC adjacent land owner concerns were: the development is in a critical watershed, wildlife, and number wells. Ms. Booker wanted to know if county water would be available for area.

Mr. Ashness address Ms. Booker questions about wells.

Barbara Moore, 2073 N. Pea Ridge Rd., Pittsboro, NC would like an updated plan and stated it appears that some of their concerns from the community meeting has been implemented and that was pleasing to see.

Public Hearing Adjourned (7:47 p.m.)

Board discussion followed

2. Request by Mark Ashness, P. E., CE Group, on behalf of Polk-Sullivan, LLC for subdivision First Plat approval of Seaforth Landing, consisting of 45 lots on 107.85 acres located off SR 1941, Seaforth Road, New Hope Township, parcel #17487.

Mr. Sullivan reviewed agenda notes for First Plat approval of Seaforth Landing consisting of 45 lots on 107.85 acres. Zoning of the property is R-1 standard residential zoning in an area that transitions to an R-5, but R-5 property is part the current request. Minimum lot size is 1.5 acres because Watershed and Subdivision Regulation requirement. Its split between WS-IV-PA (protected) Watershed and Critical Watershed and in residential areas there's no difference in protected or critical. Roads will be built to public state road standards and served by individual well and septic. A soil scientist report prepared on May 18, 2007 for Polk Sullivan LLC by Ricky Pontello, Licensed Soil Scientist with S&EC, PA was reviewed and was deemed acceptable by Chatham County Lead Soil Scientist Thomas Boyce on June 5, 2015. The proposed road names for the developments: Seaforth Landing Drive, Pine Cone Loop and Lakes Edge Lane have all been approved by Chatham County Emergency Operations. The developer has provided a 60' right of way for access to an existing home offsite.

The project is under fifty (50) lots and was required by the Subdivision Regulations to provide the General Environmental Documentation regarding the property to the Environmental Quality Department. Stewart Pickens, Environmental Officer, reviewed the submitted information and approved the submittal June 5, 2015.

Stewart Pickens conducted an onsite review of riparian buffers with S&EC Consultants and concurred with their findings. One ephemeral stream origin was lengthened and the change is updated on the submitted first plat. Three stream segments, all containing a combination of ephemeral and intermittent channels, are identified and buffered appropriately on the plat. The applicants also received documentation from the US Army Corps of Engineers regarding a wetland determination. The site does contain a couple jurisdictional linear wetlands along the western periphery of the site and are situated within the riparian buffer area. The applicant proposes no stream crossings or wetland impacts.

No historical features within the boundaries of the proposed project site. There is a cemetery to the northwest of the site, but is not within this project area.

Per Subdivision Regulation requirements, two site visits to the proposed development were arranged and attended by the developer. Board of Commissioners as well as the Planning Board were invited to attend the site meetings 6/16 and 6/17. Two Planning Board members attended the

site visit 6/16 and no attendees were present 6/17. It was noted the property has been timbered repeatedly over time.

Other Items: Access to three lots owned by Benjamin Ferndon (parcels 17487, 17535, and 17533) is through the subject property and the developer is proposing an alternate access between lots 24 and 29 with a 60' right-of-way. The developer has indicated they have an on-going relationship with Mr. Ferndon and he is agreeable to the relocated driveway access.

Technical Review Committee: The project was reviewed by county staff 6/17 along with the applicant's engineer. No substantial comments or concerns were received.

The Planning Department recommends approval of the road names "Seaforth Landing Drive, Pine Cone Loop and Lakes Edge Lane" and recommends granting First Plat approval of Seaforth Landing as submitted.

Motion:

Mr. Elza made motion; seconded by Mr. Galin to approve as submitted. There was no discussion and the motion passed unanimously (11 Board members).

IX. ZONING:

Legislative Request:

1. Request by Goldston Apex Properties dba Builder's First Source – to rezone approximately 4.19 acres to be added to the current development for three new storage structures and laydown yard from Residential District (R1) to Conditional District Light Industrial (CD-IL) and to reclassify the existing zoning of Conditional Use Light Industrial District (CU-IL) to Conditional District Light Industrial (CD-IL), including all or a portion of parcels 17893 and 73463.

Mr. Sullivan reviewed the agenda notes to rezone approximately 4.19 acres from R-1 (Residential) to CD-IL (Conditional District Light Industrial) and reclassify existing zoning CU-IL (Conditional Use Light Industrial District) to CD-IL. A legislative public hearing was held on June 15, 2015. The Planning Department presented the request and provided an overview. Speaking on behalf of the applicant was Karen Calloway, PE, from Mack Gay Associates, owner, Jim Goldston, and one adjacent landowner Ms. Jean Fish. No other testimony was given.

Goldston Apex Properties first located in Chatham County in 1997 with the first approval for conditional use district and a conditional use permit issued July 22nd on the 46 acre parcel with conditions which can be viewed on the Planning Department website. The business has continued to operate and expand its services to meet the growing building construction industry. There has been one revision to the CUP to install an ATM machine that required an additional three conditions: (1) Facility to

have secure surveillance cameras; (2) An alarm system be installed and maintained; and (3) The top of the structure not exceed ten (10) feet.

The applicant held the community meeting, as required by ordinance, on March 11, 2015 and a report of that meeting was included in the application packet and is subject to consideration by the Board. No citizens attended and no concerns raised as a result of the proposal.

The applicant met with the Chatham County Appearance Commission on April 22, 2015. They recommended approval the landscaping plan and suggested a few changes in plant material.

Five items in the Zoning Ordinance that must be addressed by the applicant they are:

Item #1: The alleged error in this Ordinance, if any, which would be remedied by the proposed amendment with a detailed description of such error in the Ordinance and detailed reasons how the proposed amendment will correct the same. No errors in the ordinance are being claimed.

Item #2: The changed or changing conditions, if any, of the area or in the County generally, which make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare. The business has been successful and is need of an expansion. Their property adjacent to the current facility will afford them the opportunity to do so. Because the site is located on a portion of US 64 that is named in the US 64 Corridor Study for future expansion, the applicant has worked with NCDOT to provide one additional access. The site plan is also designed with all proposed buildings further back from the property line than is currently allowed by ordinance to accommodate a future service road should NCDOT require additional area for expansion in the future.

The applicant is also proposing to offset the impervious surface allocation with a deed restriction on additional property located within the same watershed district allowing more of the project site to be developed. This provision was adopted by the Legislature several years ago and has been utilized for other projects in the county. The applicant plans to utilize this statute allowance by allocating a portion of Parcel No. 11172 to be known as Parcel No. 90450 which is approximately 30 acres in size.

Environmental Quality Director, Dan LaMontagne, has approved the allocation. A deed restriction will be recorded perpetually binding the tract to the Builder's First Source project area. A revised impervious surface impact calculation is included as Attachment No 3.

An Environmental Impact Assessment was prepared for the project as required by the Zoning Ordinance and reviewed by the Environmental Review Advisory Committee (ERAC). The ERAC comments are provided on the website and the Environmental Quality Director also reviewed the information. All required buffers and setbacks have been or will be met.

A review from the Historical Society for the residence and barns on the site was performed and comments provided by Bev Wiggins are included on the planning website. There is no further action that needs to be taken as far as registry of these structures. Although old, there was no significant historical feature that needed preserving. The residence and other materials have been given to another party and will be removed.

Item #3: The manner in which the proposed amendment will carry out the intent and purpose of any adopted plans or part thereof by encouraging the expansion and support of current business located within the county. The Land Conservation and Development Plan lists several goals and objectives to support the economy in the county. The expansion of this business will be sited between the existing facility and the newly approved multi-level self-storage facility, boat and RV storage, and a boat retail and repair business. Page 34 of the Plan describes this area as an Economic Development Center location.

The Plan further encourages protection of ground and surface waters. All wetlands, streams, and other water features that are required to be protected are shown on the site plans. The current pond on the property will be relocated further south so that the laydown yard area can be established. The current pond is also used for the businesses' fire protection. The relocated pond will need to be designed to meet or exceed the current fire protection needs. A condition has been provided to ensure that this is approved before any land disturbing activity can take place on the expansion site. This has been reviewed and accepted by Environmental Quality, Fire Marshal's Office, and the North Chatham Fire Department via correspondence with the Planning staff.

Currently county water is not available to this site.

Since this project was originally approved, the Chatham County Zoning Ordinance has been updated with a new conditional zoning district process. This request also converts the current conditional use light industrial zoning for Builder's First Source to the corresponding conditional district light industrial zoning classification. This creates a uniformity with the ordinance and allows the new project area to be fully incorporated into the overall site so that the regulations governing the district are equal across the project.

Item #4: The requested amendment is either essential or desirable for the public convenience or welfare by the continuance of an existing business that provides building materials to projects located in the county and surrounding areas. There are many newly approved projects within the county and adjoining ETJ areas of Pittsboro and Apex that may also be supported by the materials supplied by this company helping to keep sales tax revenue in Chatham County.

Item #5: All other circumstances, factors, and reasons which the applicant offers in support of the proposed amendment include supporting

the local economy by hiring new employees, increasing the tax base of additional land, and anticipated increase in sales tax from materials purchased.

Based on the supporting material, application details, and review of the five standards in the ordinance, the Planning Department finds the request be supported for approval.

Board discussion followed.

Motion:

Mr. Galin made a motion; seconded by Mr. Wilson to recommend approval as submitted with conditions. There was no discussion and the motion passed unanimously (11 Board members).

Consistency Statement:

The request to rezone 4.19 acres of Parcel No. 17893 and the portions of 73463 for Builder's First Source, from R-1 Residential and CU-IL to CD- IL is consistent with the adopted land use plans and regulations of the County by providing adequate information for the protection of ground and surface water, by the minimal amount of disturbance needed to develop the project, allocating Parcel No. 11172 for the offset of impervious surface to be deed protected from development, further encouraging the continuance of existing business; and therefore is recommended for approval as requested.

Motion:

Mr. Galin made a motion; seconded by Mr. Wilson to recommend the Consistency Statement as stated above. There was no discussion and the motion passed unanimously (11 Board members).

Quasi-Judicial Request:

2. Request by Strontium Partners, LLC for a three year extension on a Conditional Use Permit approval for a 15 unit condominium building to be located within Governor's Village, Parcel No. 76561.

Mr. Sullivan reviewed the agenda notes for a three (3) year extension on a Conditional Use Permit approval. A quasi-judicial public hearing was held on this request June 15, 2015. Planning staff presented the request and provided background information. The applicant, Mr. Chris Ehrenfeld also spoke on the request. No other testimony was provided.

On July 16, 2012, the Board of Commissioners approved a conditional use permit revision which included changing the use of Parcel No. 76561, located in Governor's Village, from a commercial use to residential to accommodate a market for multiple housing options. The current approval is for a 15 unit condominium building with detached garage units and appropriate parking allotment area.

Part of the approval was a set of conditions that were also included and agreed to by the applicant. Condition No. 6 under Standard Site Conditions stated a building permit was to be issued and remain valid

within three (3) years of the approval. This condition had not nor was going to be met by the deadline resulting in the request for an extension from the applicant.

A conditional use permit revision is authorized in the Chatham County Zoning Ordinance, Section 17.4 provided the application is not considered within 12 months of the original conditional use permit application approval or within 12 months of the hearing of a previous amendment. The applicant has not requested a change in any of the prior approval or conditions as outlined in the original approval.

The applicant stated in the application and at the public hearing, they still intend on constructing the condominium building as described and shown on the approved site plan provided in the application packet. Mr. Ehrenfeld stated that it has been difficult in recent years to obtain construction loans for multi-tenant housing developers, as well as those seeking to obtain loans to purchase condos. He further stated those options have become more favorable and they are ready to move forward with beginning construction.

All of the five (5) findings remain in effect and valid as previously approved with the exception of Condition No. 6 which change to provide an additional three (3) year extension. The Planning Department finds this request to be consistent with the ordinances of Chatham County and reasonable in order to promote the development of the site as previously approved.

All current conditions as documented on the July 16, 2012 (attachment 2) approval shall remain in effect with the exception of Condition No. 6 which shall read as follows:

6. A building permit shall be issued and remain valid at all times within three (3) years of the CUP revision approval date of (insert date BOC approves) or this permit shall become null and void.

Board discussion followed.

Motion:

Mr. Lucier made a motion; seconded by Mr. Geata to approve as submitted. There was no discussion and the motion passed unanimously (11 Board members).

X. NEW BUSINESS:

No new business.

XI. PLANNING DIRECTOR'S REPORTS:

1. Minor Subdivisions / Exempt Maps

Mr. Sullivan stated that this update was included in the packets.

2. Update on Joint Chatham-Cary Plan Development Activity

Mr. Sullivan stated he would bring this item with him on August 4th meeting.

XII. BOARD MEMBER ITEMS:

1. Alternatives to Open Use-Zoning Subcommittee Update

Mr. Lucier reported the committee met five (5) times since February 2015, he stated he feels like they have met for the last time and that the sub-committee has taken it as far as it can go. It's time to bring it before the entire Planning Board so a recommendation can be made to the Board of Commissioners. Mr. Lucier went over the five (5) different options: 1). Do nothing at this time. 2). Open use zoning 3). Extend traditional zoning 4). Traditional zoning is some areas that is currently unzoned and open use zoning in other areas 5). Combination of three (3) different types of zoning traditional zoning, open use zoning and to leave some areas as is. The committee believes there should be public input.

Board discussion followed.

Ron Damerson briefly spoke in opposition of zoning.

James Tysor spoke in opposition.

Board discussion followed.

XIII. ADJOURNMENT: There being no further business the meeting adjourned at 9:02 p.m.

_____/_____
B.J. Copeland, Chair / Date

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