



Chatham County Planning Board Minutes August 4, 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
Barbara Ford
Gene Galin
Tony Geata
George Lucier
Caroline Siverson

Absent:

Jim Elza

Other: Diana Hales, County Commissioner Liaison

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 6:32 p.m.
- III. DETERMINATION OF QUORUM:
The clerk stated a quorum was present to begin the meeting (10 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 July 7, 2015 Planning Board minutes.

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

John Graybeal, 3396 Alston Chapel Road, Pittsboro, NC: spoke in favor of zoning the unzoned portions of the county.

Esta Cohen, 688 Van Thomas Road, Pittsboro, NC: stated there was a general mailing that was sent out with the return address of Chatham County Agriculture Extension, this mailing wasn't sent by the Ag. Extension and it's unknown where it came from.

Pat Harris, 56 E. Salisbury Street, Pittsboro, NC: spoke in opposition of zoning the unzoned areas.

A.P. Culberson, 1217 R.C. Overman Road, Siler City, NC: spoke in opposition of zoning the unzoned areas.

Richard Peter, 256 Joe Brown Road, Bear Creek, NC: spoke in opposition of zoning the unzoned areas.

Cindy Dameron, 11080 Hwy 64 W., Siler City, NC: spoke in opposition of the zoning the unzoned areas.

Board discussion followed.

VII. SUBDIVISIONS:

1. Request by F-L Legacy Owner, LLC for subdivision final plat approval of The Legacy Phase 5A1, consisting of 35 lots on 11.78 acres, located off SR-1716, Big Woods Road, Williams Township, parcel #17378.

Ms. Richardson reviewed the agenda notes for the final plat approval of The Legacy Phase 5A1. The subdivision is reviewed under the pre-2008 Subdivision Regulations, it has private paved roads, public water, R-1 zoning with Conditional Use Permit for a Planned Unit Development. 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 4A1 received preliminary plat approval for 32 lots on April 20, 2015
- Phase 5A received preliminary plat approval for 57 lots on April 20, 2015

Phase 5A1 is a portion of Phase 5A that received preliminary plat approval on April 20, 2015 for 57 lots. The request before the Board is for final plat approval of The Legacy, Phase 5A1, consisting of 35 lots on 11.78 acres with a financial guarantee for completion of the remaining infrastructure. The pre-2008 Subdivision Regulations allow a final plat to be submitted with a financial guarantee when a minimum of 40% of the total cost of improvements has been completed and when the public health and/or safety will not be endangered. Mark Ashness, P.E., CE Group, Inc. has certified in a cost estimate letter dated July 10, 2015 that 48% of the infrastructure has been completed. Mr. Ashness stated that the cost estimate letter will be updated and resubmitted prior to final plat recordation and that he expects the project to be approximately 90% complete at that time. Prior to final plat recordation, staff will need to receive certification from the engineer that the roadway is accessible to emergency vehicles and verification from the Fire Marshal that he agrees. The county attorney will have to review and approve the form of the financial guarantee and contract prior to final plat recordation.

There were three conditions of approval in 2006 when the project was first approved. All three conditions have been met.

The roadways in The Legacy are private. Per the engineer, all private roads are constructed to meet NCDOT's Standards and Specifications. A 3rd Party Testing Agency has been retained to provide testing and certification. Those records will then be provided to the HOA. County water is available to the subdivision and sewer service will be provided by the private wastewater treatment plant. Language has been drafted by the Utilities Department and sent to the county attorney for review and approval which will be added to the final mylar regarding situations where the roads are private and there is public water.

The Technical Review Committee met on July 15, 2015 to review the submittal. Staff had no concerns or questions.

The submittal meets the requirement of the Subdivision Regulations. Staff requested a few minor changes be made to the mylar copy of the final plat prior to recordation, i.e. remove approval certificate for the Planning Department; add certificate of approval for recording for the County Commissioners; correct the number of lots on sheet 1; add a note to the plat stating responsibility of the maintenance of the private road. The plat meets the requirements of the Subdivision Regulations with changes stated above. The Planning Department recommends granting final plat approval of The Legacy, Phase 5A1 with the following conditions:

1. The plat not be recorded until the county attorney has approved the form of the contract and financial guarantee.
2. The plat not be recorded until staff has received certification from the engineer regarding emergency vehicle access and the Fire Marshal has approved.
3. Language be added to the mylar regarding county water lines and private roads.
4. The mylar be revised per recommendations of staff, i.e. remove approval certificate for the Planning Department; add certificate of approval for recording for the County Commissioners; correct the number of lots on sheet 1; add a note to the plat stating responsibility of the maintenance of the private road.

Mr. Mark Ashness, P.E., briefly spoke on behalf of the developer.

Motion:

Mr. Lucier made a motion; seconded by Mr. Galin to recommend approval as submitted with the conditions. There was no discussion and the motion passed unanimously (10 Board members).

2. Request by Lewis Metty Development, Inc for an extension of the subdivision preliminary plat expiration for Cedar Mountain, Phase 3 to extend the date from January 16, 2016 to January 16, 2018.

Ms. Richardson reviewed the agenda notes for Cedar Mountain extension. Cedar Mountain Subdivision received preliminary plat approval by the Board of County Commissioners on 7/16/07 and consisted of 65 lots. To date 24 lots have received final plat approval in Cedar Mountain Phases I and II. All 24 lots have been sold. Of the 24 lots that have sold in Phases I and II, 18 have completed homes and 3 are under construction. The roadway is proposed to be a public, state maintained road, the lots sizes range from 1.50 acres to 8.40 acres with a 2.3 acre average. On September 16, 2013, the developer requested and received an approval for a 24 month extension from the Board of Commissioners to extend the preliminary plat expiration date from January 16, 2014 to January 16, 2016. The current preliminary plat expiration date for the 41 remaining lots is January 16, 2016. If an extension request is not granted or the final plat for the remaining 41 lots is not submitted prior to the expiration date, the subdivision approval will expire and any future subdivision requests will be processed under the current Subdivision Regulation requirements. This project is currently reviewed under the pre-2008 Subdivision Regulations, the subdivision is zoned R-1, has private wells, and on-site/off-site private septic.

The developer is requesting an extension of the preliminary plat expiration date for Cedar Mountain to extend the date from January 16, 2016 to January 16, 2018. See the extension request letter, attachment #1. Per a letter received from Samir W. Bahho, P. E., the NCDOT permit is still valid and is currently being modified due to a small road realignment in Phase III of Cedar Mountain. Once the revision permit has been received from NCDOT, the developer will submit for final plat approval for a section of Cedar Mountain, Ph III, consisting of 10 lots. The erosion control permit has been renewed for a portion of the Phase III area. The balance of the project not covered under the land

disturbing permit, dated 3/17/15 will be renewed/reissued prior to any additional land disturbing activity.

The Planning Department did not make a recommendation on the request as this is a policy decision to be made by the Board of County Commissioners. If the request for an extension is approved, the Planning Department requests that the developer provide staff with copies of any new or renewed permits prior to any land disturbing activity.

Board discussion followed.

Mr. Kirk Metty, Developer was present.

Motion:

Mr. Galin made a motion; seconded by Mr. Wilson to approve the request as submitted with the developer providing staff with copies of any new or renewed permits prior to any land disturbing activity. There was no further discussion and the motion passed unanimously (10 Board members).

3. Request by Lee Bowman, Project Manager on behalf of NNP Briar Chapel, LLC for subdivision preliminary plat approval of Phase 16 Common Area consisting of one lot of 5.55 acres located off SR-1528, Andrews Store Road, Baldwin Township, parcel #82829.

Ms. Richardson reviewed the agenda notes for preliminary plat approval of Phase 16 Common Area in Briar Chapel. Briar Chapel has requested a preliminary plat review and approval of Phase 16 South, Common Area # 61 consisting of one (1) lot of 5.542 acres (per map) to allow for the construction of 5 (five) retaining walls within this common area. Retaining walls are considered infrastructure and require preliminary plat approval along with permits from other agencies as required. The other agency permits received for this request are:

Chatham County Sedimentation and Erosion Control	Erosion Control Plan	6/08/15
Department of the Army Corps of Engineers	404 Stream Impact Permit	8/21/09
NCDENR	401 Water Quality Certification	8/31/09

Per the submittal information there are no cemeteries or structures eligible for the National Register located within this project area. Per the updated impervious surface calculations, dated July 10, 2015, the cumulative impervious surface calculation for the entire Briar Chapel project area is 21.39% which includes this submittal.

The Planning Department recommends granting approval of the preliminary plat titled “Briar Chapel Development – Phase 16 South, Common Area # 61” as submitted.

Mr. Nicolas Robinson, Attorney, Mr. Lee Bowman, Project Manager, and Mr. Chris Seamster, P.E. was present.

Motion:

Ms. Siverson made a motion; seconded by Mr. Lucier to approve as submitted. There was no further discussion and the motion passed unanimously (10 Board members).

4. Request by Lee Bowman, Project Manager on behalf of NNP Briar Chapel, LLC for subdivision preliminary plat approval of Boulder Point Drive Extension consisting of 3.59 acres located off Andrews Store Road, SR-1528, Baldwin Township, parcel 87024.

Ms. Richardson reviewed the agenda notes for preliminary plat approval of Boulder Point Drive Extension. Briar Chapel is requesting preliminary plat approval on a portion of Boulder Point Drive. This section provides access to the WWTP and is currently graded and the travel-way has been graveled. The developer would now like to complete the construction of the roadway to a public, NCDOT standard. This is considered infrastructure construction which requires preliminary plat approval with review and permits from other agencies. The other agency permits required for this request are:

Soil Erosion and Sedimentation Control Permit	Erosion Control Permit	July 8, 2015
NCDOT	Road Construction	July 21, 2015
NCDENR	Stormwater Plan Boulder Point Extension	July 10, 2015

There are no new utility (water/sewer) designs for this portion of Boulder Point Drive. On July 20, 2015 the Board of Commissioners approved a request by Nicolas Robinson, Attorney, on behalf of NNP-Briar Chapel, LLC for a *Waiver to Ratify Previously Installed Drainage Structures and Minimal Grading* encroachments in riparian buffers near the Briar Chapel WWTP. Agenda notes submitted by staff stated "Per the request letter NNP-Briar Chapel installed two storm drain pipes ten years ago, in 2005, in accordance with NCDENR standards, prior to delegation of the erosion control process to Chatham County. The installation of the storm drain pipes encroach into the 10' no-build zone of one riparian buffer and into both the no-build zone and buffer area of the other riparian buffer locations. Existing buffer locations were depicted in the 2005 Briar Chapel approved concept plan and reconfirmed with the associated 2012 and 2014 Conditional Use Permit revisions. The buffers are adjacent to a proposed roadway on the Master Plan, which is currently being used as an unpaved access road to the Briar Chapel Waste Water Plant. NNP-Briar Chapel desires to formalize this roadway with approvals from NCDOT, so the future roadway may be added to the state-maintained system." The location of the storm drainage pipes are shown on the preliminary site plan for this request. There will be no additional disturbance in the buffer area.

There are no residential lots associated with this submittal. The road name has previously been approved by the Emergency Operations Office.

The Summary of Impervious Surface Calculations for Briar Chapel, dated July 10, 2015 was submitted with the application. Per the report, the total impervious surface cumulative amount for the entire project is proposed to be 21.39% which includes this submittal. The overall impervious surface limit is 24% of the project area.

Per the submitted information, there are no cemeteries or structures eligible for the National Register with the Boulder Point Drive Extension project area.

The Technical Review Committee met on July 15th to discuss the submittal. Staff did not have any concerns or questions regarding the submittal.

The Planning Department recommends granting preliminary plat approval of the request titled "Briar Chapel Boulder Point Drive Extension".

Mr. Lee Bowman, Project Manager and Mr. Chris Seamster, P.E., were present for questions and briefly spoke.

Motion:

Mr. Geata made a motion; seconded by Mr. Wilson to approve as submitted. There was no further discussion and the motion passed unanimously (10 Board members).

VIII. NEW BUSINESS:

1. Appointment to the Comprehensive Plan Steering Committee
Chair Copeland will be on the Comprehensive Plan Steering Committee and Ms. Siverson will be the alternate.

Ms. Pace briefly updated the board members of the Comprehensive Plan.

IX. PLANNING DIRECTOR'S REPORTS:

1. Minor Subdivisions / Exempt Maps

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

2. Update on consideration by the Board of Commissioners of a temporary moratorium on oil and gas development activities in the county.

Mr. Sullivan gave an update of a temporary moratorium on the oil and gas development activities that the Board of Commissioners discussed at their July 20, 2015 meeting.

3. Update on mining permit applications.

Mr. Sullivan stated that another mining permit has been submitted in the unzoned portion of the county.

X. BOARD MEMBER ITEMS:

1. *Alternatives to Open Use-Zoning Subcommittee Update*

Chair Copeland suggested that each board member state their preference, comments, or statements.

Chair Copeland suggest to wait until the Comprehensive Plan is finished, but focus on targeted areas and leave the rest of the county as an open use district to function as it currently does.

Vice-Chair Wilson proposed to look at the land use plan and as zoning comes up by default it will be looked at with the options the subcommittee came up with.

Ms. Ford stated she was leaning toward Options 4 (four) or 5 (five).

Mr. Galin proposed not to do anything tonight, that a plan is needed, and need public input.

Mr. Geata proposed to develop ordinances to protect land owners from undesirable activities.

Mr. Lucier suggested Option 4 (four). In the high risk areas of the county traditional zoning and other portions open use.

Mr. Arthur proposed Option 3 (three).

Mr. Bock stated he like the concept of Option 4 (four) but currently would go with option one (1) do nothing. Not meaning to do nothing in the way of zoning, but recommend to the commissioners to do ordinances.

Ms. Siverson proposed Option 3 (three).

Ms. Curtis suggested that they be conservative; open use or ordinances may be a better idea and wait for the Comprehensive Plan. Ms. Curtis also gave out a hand out.

Board discussion followed.

Motion:

Mr. Bock made a motion; seconded by Mr. Wilson to recommend no zoning until the Comprehensive Land Use Plan is adopted and ordinances be explored to address the high impact areas.

Board discussion followed.

There was no further discussion and the motion failed 5-5 (Ford, Siverson, Arthur, Geata, and Lucier against).

Motion:

Mr. Lucier made a motion; seconded by Mr. Geata to recommend Hybrid Option 4 (four) extending traditional zoning into high risk areas and open use zoning in the remainder of the unzoned portions of the county, ask staff to come up with potential maps were those lines should be drawn, and ask staff to come up with a map with existing businesses with agriculture activity.

Board discussion followed.

There was no further discussion and the motion failed 5-5 (Copeland, Wilson, Curtis, Galin, and Bock against)

Motion:

Mr. Bock made a motion; seconded by Ms. Curtis to recommend Option 2 (two) Open Use Zoning to the unzoned areas.

Board discussion followed.

There was no further discussion and the motion failed 5-5 (Ford, Siverson, Arthur, Geata, and Lucier against).

XI. ADJOURNMENT: There being no further business the meeting adjourned at 9:10 p.m.

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

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