



**Chatham County Planning Board
Minutes
November 2, 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
Tony Gaeta
Gene Galin
George Lucier
Caroline Siverson

Absent:

Barbara Ford

Other: Diana Hales, County Commissioner Liaison

Planning Department:

Jason Sullivan, Planning Director
Hillary Pace, Planner II
Angela Birchett, Zoning Administrator
Lynn Richardson, Subdivision Administrator
Kimberly Tyson, Clerk to the Board

- I. INVOCATION AND PLEDGE OF ALLEGIANCE:
Mr. Copeland, Chair, delivered the invocation and afterwards 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 (10 members were present at this time).
- IV. APPROVAL OF AGENDA:
No changes were proposed and the agenda was considered approved as submitted.
- V. APPROVAL OF CONSENT AGENDA:

Minutes: Consideration of a request for approval of the October 6, 2015 Planning Board minutes.

Page 71: Remove "Interim" from the third paragraph. *Minutes stand approved.*

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

1. Matt McKay 80 Owen Towne Road, Chapel Hill spoke in opposition of family care homes
2. Ginny Berg 10017 Fountain, Chapel Hill spoke in opposition of family care homes
3. Marla Benton spoke in favor of family care homes
4. Joe Glasson 11408 Governors Dr., Chapel Hill welcomed family care homes but in opposition of clustered areas
5. Judi Anderson 11415 Governors Dr., Chapel Hill spoke in opposition

Cecil Wilson arrived at this time (6:42 pm)

VII. BOARD MEMBER ITEMS:

SUBDIVISIONS:

Request by NNP Briar Chapel, LLC for subdivision Preliminary Plat approval of Briar Chapel, Phase 15 North, consisting of 50 lots on 20.32 acres, located off Andrews Store Road, SR-1528 and US 15-501 N, Baldwin Township, parcel #82828.

Mr. Sullivan stated this was a follow up of what was discussed at the October 6, 2015 meeting. At that meeting, neighboring property owner Sledd Thomas spoke of his concerns about the Environmental Impact Assessment (EIA) provided during 2004 application submittal from Newland Communities when Briar Chapel was originally approved. Mr. Thomas questioned whether Newland Communities was mass grading phases of the development when the EIA indicated that individual lot disturbance was supposed to occur separately from the installation of infrastructure.

In the November 2, 2015 Planning Board packet, the board members were provided additional information that include portions of the 2004 EIA and the original conditional use permit approved in 2005.

The EIA, in Section 5.10.1.2, notes that water quality can be impacted by construction, including off-site impacts; that erosion control measures will be permitted and installed; that post-construction stormwater run-off could impact off-site properties; and that stormwater controls will be installed. This section also includes that "to the extent practical, entire areas of home sites will not be cleared at a given time; rather lots will be cleared individually as houses are built which will minimize the amount of land cleared and greatly reduce the amount of time that soil is bare."

An EIA is not a regulatory tool, but serves to provide additional information about the impacts of a project and possible alternatives to those impacts. Condition #22 of the original conditional use permit clarifies that erosion control permits will be obtained prior

to land disturbance, which has and continues to be met. That condition has remained unchanged through several revisions to the conditional use permit.

Planning staff also contacted Land & Water Resources Division staff following the October Planning Board meeting regarding the concerns that were introduced. They inspected the area upstream of Mr. Thomas' pond and found that the erosion control devices were functioning properly, the site was in compliance, and did not find offsite sediment. In 2014, the county received similar complaints and inspected the pond and upstream conditions within Briar Chapel with NC Division of Water Resources staff. They found no violations from Briar Chapel, but did explain to Mr. Thomas that turbidity is difficult to address, but is not a violation of erosion control measures.

The October 6, 2015 preliminary plat request included:

- Site Plan: Attachment # 3 is the site plan showing Phase 15 North.
- Permits: Agency permits required for preliminary plat approval have been received. You may view a copy of the permits at www.chathamnc.org/planning, 2015, Briar Chapel, Ph 15 North.
- Historical / Archaeological: The application materials state that there are no cemeteries or structures eligible for the National Register within the project area of Phase 15N. Staff has requested confirmation that there are no structures/cemeteries within Phase 15 N that are 50 years or older that are not eligible for the National Register.
- Road Names: The Emergency Operations Center has stated that the cul-de-sacs proposed on the site plat to be named Rosebank Drive will require an additional road name for addressing purposes. The developer has stated that the roadway will be named Rosebank North and Rosebank South. The road name 'Rosebank' has been approved as acceptable to submit for approval by the Board of Commissioners and using North and South is acceptable to EOC. The correct road names will be shown on the final plat.
- Conditional Use Permit Stipulations: See attachment # 2 for an update on the status of meeting the Conditional Use Permit Conditions of approval.
- Water features: There is a perennial stream within Ph 15 North, as shown on the site plan, with a 100 foot wide riparian buffer along with a 10 foot no build area.
- Technical Review Committee Review: The Technical Review Committee met on September 16, 2015 to review the request. The comments/concerns were as stated above, the cul-de-sac radius and an additional road name. There was also discussion regarding the stormwater pond being located outside of the 10' no build area.

The Planning Department recommends granting approval of the road names Rosebank North and Rosebank South and preliminary plat approval of Briar Chapel, Phase 15 North with the following conditions:

1. The Developer shall provide staff with a copy of the revised NCDOT permit to meet the requirement of the pre-2008 Subdivision Regulations, Section 6.2(C) (1), prior to commencement of construction.

2. The cul-de-sacs shall have different names as required by the Emergency Operations Office and the names shall be shown on the final plat.

3. The final plat shall show the correct cul-de-sac radius as required in Section 6.2(C) (1) of the pre-2008 Subdivision Regulations as stated "The minimum cul-de-sac pavement radius for curb and gutter section and shoulder section is 40 feet. The minimum right-of-way radius for curb and gutter section and shoulder section is 55 feet".

Board discussion followed. Mr. Sullivan was asked who issues and monitors the stormwater permits and erosion control permits for Briar Chapel. Mr. Sullivan stated that stormwater management falls under the purview of NCDENR and Chatham County administers and enforces the erosion and sedimentation control ordinance including issuance of land disturbance permits.

Representative from Briar Chapel was present.

Mr. Sledd Thomas was present.

Motion - Passed:

Mr. Gaeta made a motion; seconded by Mr. Galin to grant approval of the road names and preliminary plat with the three (3) conditions stated above. There was no further discussion and the motion passed by vote of 9-1 (Elza against)

IX. ZONING:

1. A request by the Governor's Club Property Owner's Association, Inc. for a text amendment to the Chatham County Zoning Ordinance, Section 7.2 Definitions and Section 10.13 Table of Permitted Uses to change the definition and allowances for Family Care Homes within the R1, R2, R5, and O & I zoning districts.

Chair Copeland stated this proposal was been tabled the past two meetings and a vote is needed.

Mr. Sullivan stated this proposal was postpone from the last meeting to contact adjoining jurisdictions regarding their separation requirements. Mr. Sullivan stated the following information as gathered:

- Lee County/City of Sanford (combined planning) – ½ mile separation requirement and was implemented due to the increasing number of family care homes locating within the municipal limits and municipal fringe areas in the county. The city was experiencing an increase in the number of family care homes locating within close proximity to each other and there was a community desire to implement a separation requirement.
- Wake County – ½ mile separation requirement, the statute was followed, and
- Harnett County – ½ mile separation and no particular reason was noted for the provision and the statute was followed. It was noted that the separation requirement can protect areas from having a concentration of family care homes in neighborhoods where foreclosures are occurring and providers can purchase the homes at a lower cost.

- Durham County/Durham City (combined planning) – 1,125’ separation requirement. Both county and city attorneys were requested to review the separation requirement and thought this distance was legally defensible. It was also noted that a majority of family care homes are located within the municipal limits with few instances in the county’s jurisdictions.

Currently the Chatham County Zoning Ordinance defines a Family Care Home as “a home meeting the NC Residential Building Code with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment.” These homes are currently permitted by right in residentially zoned districts for up to six residents and Office and Institutionally zoned areas. Until now, there have been no issues with family care homes or an influx of such a type of housing within the county’s jurisdiction.

Chatham County has several institutional facilities for those who have disabilities and can no longer manage their activities of daily living. In a family care home setting, most are still able to drive, manage the majority of their ADLs, and still interact with their communities as would anyone else.

Some jurisdictions do have separation regulations within their zoning ordinances for family care homes. Within Chatham County, the Town of Pittsboro’s zoning ordinance states “Family Care Homes are private residences for aged and disabled adults who may require supervision and assistance with personal care needs. Family Care Homes are owned by providers who live with the residents they serve. They must maintain a license with the State of North Carolina, are limited to six residents and may not be closer than a 2640 foot radius to another Family Care Home.” The Town of Siler City is said to have a ½ mile separation as well but I was not able to locate that in their UDO.

Per the NC Building Code, Section 425, define family care homes as residential care facilities. Section 425.3 Small Residential Care Facilities keeping no more than six (6) residents shall be classified as single family residential and therefore would not be regulated as a commercial property (Attachment 4).

One question posed during the public hearing was whether a homeowners association could enforce a separation requirement for family care homes. Staff received an interpretation from the County Attorney, Jep Rose, concluding that homeowners associations are prevented from enforcing family care home separation requirements and that it is left to local government if they choose to adopt a standard.

Based on the information provided, it is Planning staff recommendation to deny this request and not recommend any text amendments that would further attempt to regulate family care homes for up to six persons.

Motion - Passed:

Mr. Elza made a motion; seconded by Mr. Bock to recommend to the Board of Commissioners to establish an ordinance of 1,125 feet separation between the family care homes. There was no further discussion and the motion passed by vote of 7-3 (Lucier, Curtis, and Siverson against).

Consistency Statement: Motion – Passed:

Mr. Wilson made a motion; seconded by Mr. Elza that it's consistent with the county's plan. Motion passed by vote of 7-0 (Abstentions by Lucier, Curtis, and Siverson)

2. A rezoning request by Par 5 Development Group, LLC for Parcel No. 78290, being all of 14.23 acres, located at 7733 Moncure Pittsboro Rd., Haw River Township, from R-1 Residential to NB Neighborhood Business.

Ms. Birchett reviewed the agenda notes for the proposal to rezone parcel no. 78290 located at 7733 Moncure Pittsboro Rd from R-1 to Neighborhood Business (NB). A legislative public hearing was held October 19, 2015. Ms. Birchett stated if you were at the Board of Commissioners public hearing meeting the packet contains a proposal for a site plan for a future use, you can't consider the use. What's before the board is the general rezoning request for 14.23 acres. A resident of the Moncure area, Ms. Mary Ann Perkins, spoke in favor of the request stating it is needed to keep revenues generated inside Chatham County and to support the Moncure area. Commissioners asked about neighboring properties and their proximity to the commercial rezoning request. There are residential uses across the Pittsboro Moncure Road but not adjacent or adjoining the site. The applicant stated that according to NCDOT, additional right of way, if needed, would be taken from the project side of the roadway, not across the road. The applicant also worked with the Economic Development Corporation to obtain a marketing report where they focused on a five mile radius that showed a retail gap of \$19,086,000.00 in this area. There are currently four convenience stores in the area with estimated sales of \$2,610,000.00. Protecting environmental resources, rural character, and groundwater resources can be met, as outlined in the Land Conservation and Development Plan, due to the 5.12 acre limitation of impervious surface. The property is located within the WSIV-Protected Area watershed district which will allow up to 36% of developed, impervious surface. Therefore, out of the 14.23 acres, approximately 5.12 acres can be impervious surfaces. The landowner will have the option to create non-residential subdivisions of land as may be needed for individual tenants or interest.

Based on the supporting documentation provided with the application, information provided at the public hearing, and support with the Land Conservation and Development Plan and Economic Development Corporation study, planning staff recommends the Board consider approving the request.

Mr. Scott Brown, applicant, was present and explain the retail gap information.

Board discussion followed.

Motion – Passed:

Mr. Galin made a motion and seconded by Mr. Luicer to recommend approval of proposal as submitted. There was no further discussion and the motion passed unanimously.

Consistency Statement: Motion – Passed:

Mr. Elza made a motion and seconded by Mr. Arthur it is the opinion of the Planning Board that the rezoning request for Parcel No.78290, being approximately 14.23 acres, is consistent with the goals and objectives of the Land Use Plans of Chatham County by reinforcing that the Moncure-Haywood area is shown as a designated Economic Development Center, specifically for its commercial potential along with access to transportation and infrastructure. There was no further discussion and the motion passed unanimously.

X. NEW BUSINESS: None

XI. BOARD MEMBERS ITEMS:

1. Continuation of a discussion regarding Planning Board interaction with citizens during public comment.

Board members decided interactions between audience and board members will be acceptable with the chair having the option to stop the interactions.

2. Set 2016 Planning Board Meeting Calendar

Mr. Arthur made a motion and seconded by Ms. Curtis to approve the following dates for 2016 Planning Board meetings:

January 5, 2016

February 2, 2016

March 1, 2016

April 5, 2016

May 3, 2016

June 7, 2016

July 12, 2016

August 2, 2016

September 6, 2016

October 4, 2016

November 1, 2016

December 6, 2016

There was no further discussion and the motion passed unanimously.

3. Report of Chatham Conservation Partnership

Chair Copeland asked Mr. Lucier to give a brief update of the meeting. Mr. Lucier stated this is a combination group that consist of Chatham, state, and a number of people. He shared some information from the Alternative to Open Use Zoning Subcommittee but most questions he received were related to the ordinances e.g. Subdivision, Watershed, Soil and Sedimentation Erosion Control, etc. A few questions about Chatham Parks, but currently this can't be answered because it's unknown of the impact it will bring.

Chair Copeland added, Chatham Conservation Partnership has asked serval times for representation from the Planning Board and appointed Mr. Lucier to attend their meetings.

4. Confession from Chair Copeland

