



Chatham County Planning Board Minutes May 2, 2017

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:

George Lucier, Chair
Caroline Siverson, Vice Chair
Bill Arthur
Brian Bock
Jim Elza
Tony Gaeta
Emily Moose
Jon Spoon
Allison Weakley

Absent:

Gene Galin
Jamie Hager

Planning Department:

Jason Sullivan, Planning Director
Lynn Richardson, Subdivision Administrator
Kimberly Tyson, Land Use Administrator I
Paula Phillips, Administrative Support Specialist II
Kay Everage, Acting Clerical Assistant

- I. INVOCATION AND PLEDGE OF ALLEGIANCE:
Mr. Gaeta delivered the invocation and afterwards everyone stood and recited the Pledge of Allegiance.
- II. CALL TO ORDER:
Chair Lucier called the meeting to order at 6:30 p.m.
- III. DETERMINATION OF QUORUM:
Chair Lucier stated a quorum was present to begin the meeting (9 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 April 4, 2017 Planning Board minutes. The following corrections were noted:

Page 50 Stonecrest at Norwood Crossing – omitted vote.
Add wording: “The motion passed unanimously”.

Page 51 Comprehensive Plan Update and Discussion
• first paragraph, last sentence
Add wording: “after the public hearing is held”.

- **Land Use** #2. placement of a park
- **Natural Resources** #1. appropriate land use designations

Ms. Weakley made a motion; seconded by Ms. Moose to approve the April 4, 2017 Planning Board Minutes as submitted with the changes referenced changes. There was no discussion and the motion passed unanimously.

VI. **PUBLIC INPUT SESSION:**

There were no requests to speak at this time.

VII. **SUBDIVISION:**

1. Request by Lee Bowman, Project Manager, on behalf of NNP Briar Chapel, LLC for subdivision Revised Preliminary Plat and Final Plat review and approval of Briar Chapel, Phase 16 South, Section 2, consisting of 73 lots on 27.7 acres, located off SR-1528, Andrews Store Road, and Boulder Point Drive, Baldwin Township, parcel #82829.

Ms. Richardson reviewed the agenda notes for this request as follows.

Discussion & Analysis - Some details noted were:

- Zoning - Conditional Use District / Compact Community
- Compact Community approved in 2005 for 2,389 dwelling units on 1,589 acres, permit revised in 2012 and 2014
- Public water system - Chatham County/Private wastewater treatment plant – sewer system
- No floodable area in Phase 16 South - Subject to 100 year flood
- Under pre-2008 Subdivision Regulations
- March 21, 2016 Phase 16 South (125 lots) received preliminary plat approval and July 18, 2016 Phase 16 South, Section 1 (61 lots) received final plat approval from the Board of Commissioners.

She explained that on March 10, 2017, Briar Chapel submitted a final plat application for Phase 16 South, Section 2 consisting of 73 lots; that during staff review it was discovered that a portion of the road layout approved on the preliminary plat had been revised and constructed in conflict with the layout approved by the Board of Commissioners; and that the approved road layout between Lots 1571, 1572 and 1686 was revised between preliminary plat approval and final plat submittal of Section 2 showing a portion of the 3/21/16 preliminary plat approved site plan and the area of the revision. Staff returned the proposal and advised the applicant that the final plat application could not proceed due to the road layout revision; and that a future final plat submittal for Section 2 would also require a revised preliminary plan with either revised permits or acknowledgement from agencies that the revision was acceptable.

Ms. Richardson stated that this request is for, 1.) a **revised preliminary plan** for Phase 16 South, and 2.) a **final plat approval** for Phase 16 South, Section 2, consisting of 73 lots. She addressed the separate requests as follows:

Revised Preliminary Plan – She noted that the applicant submitted a revised preliminary plan for Briar Chapel Phase 16 South on April 7, 2017 showing a change to the road layout from a ‘bulb’ to a ‘stub street’; and that the change was made to provide the possibility of another option for future connection to Phase 16 North per the cover letter provided in the application. Ms. Richardson explained that the currently approved conditional use permit and associated site plan does not include authorization to cross the water feature and associated riparian buffer between Phase 16 South and Phase 16 North, that the applicant provided confirmation that the modification to the road layout was acceptable from NCDOT, NCDEQ, DWR (wastewater), NCDEQ, DWR (water), and Chatham County Utilities; and that staff received confirmation from Environmental Quality that the modification was acceptable. It was noted that the road names Pulaski Trail, Abercorn Circle, Coventry Lane, and Middleton Place have been previously approved.

Final Plat - Ms. Richardson stated that the applicant submitted a final plat request for Phase 16 South, Section 2 on April 7, 2017; that the number of lots in Phase 16 South increased by nine (9) (from 125 approved at preliminary to 134); that five (5) of those lots were approved as part of the Section 1 final plat; and that four (4) lots have been included in the Section 2 final plat. It was noted that the increased number of lots is due to current market demands; and that lot numbers were changed in order to continue consecutive numbering from Phase 10, Section 1. She explained that the final plat request was submitted with a request for a financial guarantee for completion of required infrastructure; that Phase 16 South, Section 2 is 95% complete and the roadways have been paved and are accessible to emergency vehicles; and that prior to final plat submittal the county attorney will review and approve the form of the contract and financial guarantee. She noted that the final plat request includes Common Areas #76 and #61; that Common Area #61 consists of 5.5 acres and received a separate preliminary plat review and was approved by the Board of Commissioners on August 15, 2015 in order to obtain building permits to construct several retaining walls.

Staff Recommendation - Ms. Richardson noted that the Planning Department recommends granting **Revised Preliminary Plan approval of Briar Chapel, Phase 16 South** and granting **final plat approval of Briar Chapel, Phase 16 South, Section 2** with the following condition:

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

Attorney Nicolas Robinson; Chris Seamster, RLA McKim & Creed; Garretson Browne, Construction Manager and Lee Bowman, Project Manager, were present representing the applicant, NNP Briar Chapel, LLC.

Board Discussion - Some specifics noted were:

- why the roadway layout was modified
- original and revised master plans did not show crossing the creek

- was there a safety concern that required the crossing
- has any off-site parking for residents been provided in this phase
- is on-street parking allowed; and
- what is the penalty for making the roadway modification without prior Planning approval?

Nick Robinson and Lee Bowman addressed the questions and stated that Briar Chapel did not think that the roadway modification was a significant change to the plan and therefore did not consult with Planning prior to final plat submittal; that they better understand the concern regarding modifications to approved plans based on the pre-2008 subdivision requirements; that the reason for the future potential creek crossing was for better traffic circulation within the development and to give Briar Chapel more options to meet market demands; that there is no off-street overflow parking for residents and their guests in this phase; that on-street parking is allowed; and that the penalty for not consulting with Planning staff was that their final plat submittal was delayed a month.

Motion to approve: Mr. Gaeta made a motion; seconded by Mr. Bock to grant Revised Preliminary Plan approval of Briar Chapel, Phase 16 South and final plat approval of Briar Chapel, Phase 16 South, Section 2 as requested and as recommended by staff, with the following condition:

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

Ms. Siverson, Ms. Weakley and Chair Lucier noted that they could not support the application with the stub out and potential future crossing of the creek. The motion passed 5-4 with Gaeta, Bock, Arthur, Spoon, and Elza voting in favor of the motion; and Lucier, Siverson, Moose and Weakley voting against.

2. Request by Lee Bowman, on behalf of NNP Briar Chapel, LLC for Final Plat review of Briar Chapel, Phase 10, Section 2, consisting of 65 lots on 17.96 acres, located off SR- 1528, Andrews Store Road, Baldwin Township, parcel #2714.

Ms. Richardson reviewed the agenda notes for this request as follows:

Discussion & Analysis - Some particulars noted were:

- Zoning - Conditional Use District / Compact Community
- Public water system - Chatham County
- Private sewer system - wastewater treatment plant
- No floodable area in Phase 10, Section 2
- Compact Community approved in 2005 for 2,389 dwelling units on 1,589 acres, permit revised in 2012 and 2014, and
- Under pre-2008 Subdivision Regulations

She stated that the request is for final plat approval of Briar Chapel, Phase 10, Section 2 consisting of 65 lots on 17.96 acres with a financial guarantee for the completion of required infrastructure; that on June 20, 2016 the Board of Commissioners approved Phase 10 preliminary plat for 99 lots; that Phase 10, Section 1 received final plat approval on January 17, 2017 for 41 lots; and that per the Section 2 final plat application seven (7)

lots have been added to the Section 2 final plat. She noted that no change to the roadway or waterline was required to add the additional lots; that the availability fees had been paid for the 7 additional lots as well as preliminary plat fee; that the cost estimate letter dated April 7, 2017 (prepared by Chris Seamster, RLA) states that Section 2 is 76% complete; and that the cost estimate letter would be updated prior to final plat recordation. Ms. Richardson cited that the Subdivision Regulations state that the county attorney is required to review and approve the contract and financial guarantee; that prior to final plat recordation the engineer is required to certify to the county that there is all weather access for emergency vehicles; and that the certification must be approved by the Chatham County Fire Marshal.

Adjacent Properties – Ms. Richardson explained that a 100 foot perimeter buffer is shown on the final plat; that per the Compact Communities Ordinance, the perimeter buffer shall be utilized to minimize the impacts of each compact community on adjacent properties along the entire perimeter of the compact community; that during the preliminary plat review, two adjoining property owners, **Moore Family Partnership** and **XDS, Inc.** requested access to their property from Phase 10; that the Moore Family Partnership of 25 acres is an undeveloped, landlocked property; that the XDS, Inc. property of 34.498 acres, is a non-conforming, non-profit, rehabilitation facility known as “The Farm at Penny Lane”; and that this property has frontage on a pre-1975 roadbed which limits future development potential. Also, a creek crossing is required to access the portion of XDS, Inc. property adjacent to Briar Chapel.

Preliminary Plat – It was noted that the preliminary plat approval included a condition that the final plat include a **“Dedication of public right-of-way to the common boundary line of Parcel #2817 and Parcel #2717 to provide future connectivity, as required by the Subdivision Regulations in Section 6.2, Rural Roads, B (3), and Condition # 12 as stated in the Briar Chapel 2014 Resolution Approving a Revision to a Conditional Use Permit Request”**; that this condition has been met (as shown on the final plat by providing public road right-of-way dedication to the common boundary line of parcel #'s 2817 and 2717); that Briar Chapel will construct the public road to the inside edge of the perimeter buffer; and that the construction of the connecting roadway (through the perimeter buffer) will be the responsibility of the owners of parcel #'s 2817 and 2717.

County Water - During the preliminary plat review it was indicated that if county water was available, the waterline may be required to be extended to serve any future development of the parcels and would be the responsibility of the owners of parcel #'s 2817 and 2717.

Alleyway Name - Brookline Drive (as shown on the final plat) replaces the name Rye Grass Run Trail used in Phase 10, Section 1 and approved by the Board of Commissioners at preliminary plat approval. The Emergency Operations Office has approved the name Brookline Drive for submittal for approval with the final plat.

Ms. Richardson and Mr. Sullivan recently visit the Phase 10 site and various pictures from their findings were shown to the Board using the large display screen.

Staff Recommendation – Ms. Richardson stated that The Planning Department recommends granting approval of the road name Brookline Drive and approval of the final plat titled “Briar Chapel, Phase 10, Section 2” with the following two (2) conditions:

1. Prior to final plat recordation the county attorney shall approve the form of the contract and financial guarantee.
2. Prior to final plat recordation the engineer shall certify to the county that there is all weather access for emergency vehicles and the certification must be approved by the Fire Marshal.

Lee Bowman and Garretson Browne, with Briar Chapel; Chris Seamster, RLA, McKim & Creed, and Nick Robinson, Attorney were present representing Briar Chapel.

Board discussion followed. Some specifics noted were:

- where were additional 7 lots added
- Andrews Store Road
- product type
- will the alleyways allow 2 way traffic or on-street parking
- potential additional traffic on Woodland Grove if parcels #2817 and #2717 are further developed into residential lots
- timing of final paving of Woodland Grove.

Lee Bowman, Project Manager addressed the above and stated that the additional lots were added in the southwest portion of Section 2; that the product type will be cottage homes ranging in size from approximately 1400 sq. ft. to 2000 sq. ft.; that alleyways normally do not have two way traffic; that on-street parking is not allowed in alleyways; and that the final overlay of pavement on Woodland Grove will be completed Summer of 2017.

Motion to approve – Ms. Siverson made a motion; seconded by Mr. Spoon to grant approval of the road name **Brookline Drive** and final approval of Briar Chapel, Phase 10, Section 2 as submitted and as recommended by the Planning Department. There was no further discussion and the motion passed unanimously. The two (2) conditions are:

1. Prior to final plat recordation the county attorney shall approve the form of the contract and financial guarantee.
2. Prior to final plat recordation the engineer shall certify to the county that there is all weather access for emergency vehicles and the certification must be approved by the Fire Marshal.

VIII. COMPREHENSIVE PLAN Update and Discussion:

Mr. Sullivan gave the following update.

- Steering Committee for the Comprehensive Plan had two meetings last month (April 2017) to discuss all recommendations and input received from the end of February 2017 through March 2017- consultants were provided this data.
- Steering Committee’s next meeting is June 15, 2017 (taking May off to give the consultants additional time to draft the final plan document). This will be the last meeting for the Steering Committee to make recommendations to the

Commissioners leading to the public hearing (P.H.) – from P.H. goes to Planning Board to review for recommendation.

- A Public Hearing will probably not be held until August 2017

Board discussion followed and some details noted were:

- additional time necessary for contractor to make various changes in time for public hearing
- the process overall has gone very well with such a large undertaking, i.e. subdivision, transportation, housing and other issues
- additional money received from The Health Department for Comprehensive Plan use
- Planning Board has up to 3 meetings to make a recommendation to the Board of Commissioners (BOC)
- significant changes to the plan would require another public hearing
- Chatham/Cary Joint Use Plan-no changes made to their plan
- copies will be available of the first final draft when completed

IX. NEW BUSINESS:

None noted.

X. BOARD MEMBERS ITEMS:

- ***Landscape Connectivity Project*** – Last month Ms. Weakley informed the Board of this pilot regional project which is due in part to concerns about I-40 and I-85 expansion and existing conservation land (i.e., Duke Forest Land and Botanical Garden Conservation Land.)

Ms. Weakley gave a brief update on this project that Orange County and the Botanical Gardens are undertaking. She stated that there are representatives from the counties of Chatham, Durham, Wake and Orange; that a consultant has been hired for the project; and that the next meeting is May 23, 2017 if Board members are interested in attending or being more involved with the project.

- ***Chatham Conservation Partnership (CCP)*** – Ms. Weakley stated that this year the CCP is celebrating its 10th year; that a celebration is planned for July 20, 2017 at the Chatham County Agriculture & Conference Center here in Pittsboro, NC; that the plan is for the event to be catered by Angelina’s Kitchen (by donations); and that the theme for the event is, ‘The Best of the Past 10 Years’.

XI. PLANNING DIRECTOR’S REPORTS:

- ***Minor Subdivisions/Exempt Maps*** - Mr. Sullivan noted that this information was included in tonight’s agenda packet.
- ***May 15 Public Hearing Items*** – Mr. Sullivan stated that Board members received their public hearing packets earlier tonight for the following four (4) applications:

Legislative Public Hearing:

1. Briar Chapel - revision to CCO
2. Pat Cothren - conditional district rezoning
3. Glenda Toppe - plan amendment to Chatham Cary Joint Land Use Plan

Quasi-Judicial Hearing:

1. Briar Chapel - revision to CUP

He explained each submittal and noted that the Board would be receiving a revised application on the 'Toppe' request. Chair Lucier encouraged Board members to attend the public hearing.

- **CCO Waiver Request** - Mr. Sullivan referenced the following request (which is not a public hearing item) also scheduled for May 15, 2017 Board of Commissioner's review. Request by Nicolas Robinson, on behalf of NNP-Briar Chapel, LLC, for a Compact Community Ordinance (CCO) Waiver for a 100% reduction of a 100 foot perimeter buffer adjacent to parcel #2832.

- **Oil and Natural Gas Study Meeting – June 13, 2017 6:00 pm Agricultural and Conference Center** – Mr. Sullivan referenced his E-mail sent late this afternoon to Board members regarding 'Natural Gas Impacts Study Meeting Invitation' which included a link titled, 'Fracking_Moratorium_Ordinance.pdf'. The E-mail states that in August 2014 the BOC adopted a temporary moratorium on oil and gas development activities in the county; that the moratorium requires a report be prepared addressing expected impacts to the county and developing ordinance provisions to address anticipated impacts; and that to address the first part of the action items, the County has contracted with consultant, Charles Yuill, Associate Professor at West Virginia University (and private consultant with a background in environmental planning) to draft a Natural Gas Impacts Study (as outlined in Section 7 of the moratorium). The contract includes a meeting with the Commissioners and several advisory boards to provide an initial analysis and also receive input from Planning Board members. The meeting is scheduled for June 13, 2017 at 6:00 pm in the Agriculture and Conference Center here in Pittsboro, NC. Boards/Committees invited to attend include:

Comprehensive Plan Steering Committee
Environmental Review Advisory Committee
Climate Change Committee
Planning Board, and
Board of Health

Mr. Sullivan stated that Board members need to RSVP by May 26 and include himself and Lindsay Ray, Clerk to the Board of Commissioners in their response; to also include any questions they may have in the RSVP; and that those questions would be forwarded to the consultant prior to the meeting. He noted that this is the first of two parts, i.e., initial draft report and drafting regulations. (Also, see citizen concern below under XII. Miscellaneous.)

- **Impact Fees** – Mr. Arthur referenced the recent effort in the General Assembly to prevent counties from charging impact fees. Mr. Bock addressed this issue. He stated that Renee Paschal, County Manager; Debra Henzey, Community Relations and Public Information and himself attended hearings on this issue; that Chatham County and Orange County are the only two counties in the State currently charging impact fees; that recently in Orange County an impact fee was increased from \$300,000 to approximately \$1,200,000 after the project was started; and that the developer attained a member from the General Assembly to sponsor a local bill to prevent Orange County and Chatham County from charging impact fees. Mr. Bock explained that if the bill had passed, we

would no longer be able to charge these fees; that there were amendments to stop the bill and Chatham County can continue charging impact fees at current rate (but no increases until after a study is done); but that Orange County cannot continue charging the fees at this time. Mr. Sullivan noted that the Chatham County Website has information about this subject.

- **Welcome Paula Phillips** – Mr. Sullivan introduced Ms. Phillips who has joined the Planning staff as Administrative Support Specialist II and will also serve as Clerk to the Planning Board.

XII. MISCELLANEOUS:

Jeannie Ambrose, 675 Lichen Trail, Pittsboro, NC 27312 stated that she would not be able to attend the June 13 meeting regarding the **Oil and Natural Gas Study** referenced above; that some citizens have asked if there is a study on our website they could access prior to the June 13 meeting; would the meeting format be similar to public hearings; or is this meeting only for those boards/committees involved.

Mr. Sullivan stated that this is not a presentation or report but rather a meeting to receive input (i.e., consultant provides initial information to the different advisory committees and entertains questions); and that there would be a PowerPoint presentation at the meeting which would also be available on our website. Ms. Ambrose asked how this study fits in with the Comprehensive Plan. Mr. Sullivan stated that this was identified early at the outset of the Comprehensive Plan's parallel efforts; and that this is not the final report.

XIII. ADJOURNMENT: There being no further business, the meeting adjourned at 7:55 pm.

Signed: _____ / _____
George Lucier, Chair Date

Attest: _____ / _____
Paula Phillips, Clerk to the Board Date
Kay Everage, Acting Clerical Assistant