



Chatham County Planning Board Approved Minutes April, 3, 2018

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:

Carolina Siverson, Chair
George Lucier, Vice-Chair
Bill Arthur
Tony Gaeta
Allison Weakley
Gene Galin
Emily Moose
Jamie Hager
Brian Bock
Jon Spoon

Absent: Clyde Frazier

Other: Diane Hales, Board of County Commissioner

Planning Department:

Jason Sullivan, Planning Director
Lynn Richardson, Land Planner II/Subdivision Administrator
Kimberly Tyson, Land Use Administrator I
Dylan Paul, Planner II
Janie Phelps, Zoning Official
Angela Birchett, Zoning Supervisor
Paula Phillips. Clerk to the Board

- I. INVOCATION AND PLEDGE OF ALLEGIANCE:
Mr. Galin delivered the invocation and afterwards everyone stood and recited the Pledge of Allegiance.
- II. CALL TO ORDER:
Chair Siverson called the meeting to order at 6:30 p.m.
- III. DETERMINATION OF QUORUM:
Chair Siverson stated there is a quorum (10 members were present and 1 absent)
- IV. APPROVAL OF AGENDA:
Approval of the Agenda-Agenda was approved

- V. APPROVAL OF THE MINUTES: Chair Siverson asked for consideration of a request for approval of the March 6, 2018 minutes with the 3 proposed changes. There were no objections by board members and the March 6, 2018 minutes were approved

Ms. Siverson wanted to recognize Ms. Lynn Richardson and her upcoming retirement, stating this will be her last Planning Board meeting. The board thanked Ms. Richardson for all of her years of contribution and how much they appreciated her and will be missed very much.

- VI. PUBLIC INPUT SESSION: No public input

- VII. SUBDIVISION:

1. Request by F-L Legacy Owner, LLC for subdivision Preliminary Plat approval of The Legacy at Jordan Lake – Phase 5A3, consisting of 17 lots on 9.36 acres, located off SR-1716, Big Woods Road, parcel #17378. *(continued from the March 6 meeting)*

Ms. Richardson read from the notes and reviewed the neighbor, Mr. Raymond's, concerns from the March 6, 2018 planning board meeting. She reported that the request was tabled due to concerns from the Board that the lot layout submitted for preliminary plat review had changed from the Master Plan and in addition, Mr. Ashness had shown a different plan at the March Planning Board meeting that was different from the preliminary plat submitted.

Ms. Richardson reported that there were four new attachments in tonight's packet. She stated that Fire Marshal, Tom Bender, had reviewed the lot layout and access and stated the access was adequate for emergency vehicle access. Ms. Richardson stated that the revised plan has a 50' undisturbed perimeter buffer, that the existing stormwater pond is shown on the plan; that Hidden Bluff Drive was reduced in linear feet from 1,097 LF to 966 LF; and the overall number of lots in Phase 5A3 was reduced from 17 lots to 15; and that the revised plan now only has one lot adjacent to Mr. Raymond's property. Staff received the revised Erosion Control permit along with confirmation from NCDENR, Division of Water Resources that the waterline permit did not have to be revised; confirmation from NCDENR, Dept of Environmental Quality, that no revision is necessary to the sewer extension permit; and confirmation from Brian Burkhardt, Environmental Quality Director that the revision to the preliminary plat layout does not require a revision to the stormwater plan.

The developer was available for questions and board discussion followed and some points of discussion followed:

- What does 50' voluntary buffer along Parker's Creek Recreation Area of Jordan Lake? Ms. Richardson said this is an undisturbed buffer and cannot be cleared.
- Concerns with the draining into the Parkers Creek area to Jordan Lake

- The steep slopes close proximity to Parker's Creek and Jordan Lake is a concern.
- Are you treating with ½" stormwater? The developer answered yes, this is voluntary and it was not required. Jason said that ½" is required by the county, 1" is a state standard and not a county requirement
- Concerns with disturbance / grading on steep slope areas and stormwater runoff.
- Concerns with the lot density proposed on steep slopes.
- Wasn't Chatham County supposed to approve the stormwater plan? Ms. Richardson responded that Mr. Burkhart did approve it.
- One board member stated that a month ago the neighbor objected to the number of lots proposed adjacent to his property and that the developer revised the plan and resolved the problem.
- How many remaining phases are there and how long before they are completed? The developer said there are 5 phases remaining and it should take about 4 years
- Concerns with not having adequate stormwater in place to handle an event. Can the developer volunteer 1" instead of ½"? The developer said that the pond was developed and approved 3 years ago and was designed to handle 17 lots based on the ½ inch.
- One member stated that as a Board, we do not have the authority to reject a development when the project was approved under prior regulations that were in place at the time of approval. Chair, Siverson agreed and said that we are bound by the 2008 rules and regulations.
- Steep slopes are problematic and development on 25% slopes should be avoided.

Vice Chair, Lucier, made a motion to approve with a condition that there is a 100' undisturbed buffer from the bank of Parkers Creek and that the developer will honor what they said they would do; seconded by Mr. Galin.

Motion passed 7 to 3 with Ms. Weakley, Ms. Siverson and Ms. Hager voting against.

2. Request by Lee Bowman, Project Manager, on behalf of NNP Briar Chapel, LLC for subdivision Final Plat approval of Briar Chapel, Phase 15 South, Section 2, consisting of 39 lots on 6.112 acres located off Boulder Point Drive, parcel #82828.

Ms. Tyson read from staff notes and conditions, there were 3 attachments in the packets this evening.

The developer is available for questions, board discussion followed and some items discussed were as follows:

- There are 39 lots-what size are the homes? 1800 to 2400 sq ft.

Vice-Chair Lucier asked questions about the perimeter buffer waiver, road stub-out and noted that the perimeter buffer is next to Mr. Sled Thomas's property. Will the 100' perimeter buffer be retained next to his property? Mr. Robinson said, no, it will be a standard subdivision ordinance, the CUP is not applicable. It is more accurate to think of it like any other separate subdivision that connects to a stubbed out roadway to a compact community. It will be subject to the R-1 zoning per Lynn. Mr. Robinson said that Mr. Thomas is well aware of what is going on there and they have walked through the process with him. It will be connected by Briar Chapel and may be served by the waste water treatment plant.

- Does the stub-out end at Andrews Store Rd? Yes, it is one of the 3 roads that connect to BC
- What is temporary in the turnaround? It is temporary until the road will be extended and put in.

Mr. Robinson reviewed the map with board members showing the 100' view shed buffer, the 3rd condition mentioned was to run the line and show the buffer continuing even though they have a waiver not to.

- Where does the 496' perimeter buffer waiver runs where to where?

Mr. Robinson shows this on the map and stated that vegetation will be planted.

- What are the common areas? Those are areas where there are no lots. There is a group of trees that will remain and it is not part of the spray field.

Mr. Gaeta made a motion to approve; second by Mr. Arthur

Vote passed unanimously

3. Request by Lee Bowman, Project Manager, on behalf of NNP Briar Chapel, LLC for subdivision Final Plat approval of "Final Subdivision Easement and Private Right-of-Way Dedication Plat of Briar Chapel SD East – Parcels 10 – 15., consisting of 5 non-residential lots, 1 over 10 acre non-residential lot, and 1 common area lot, on 35.528 acres, located off US HWY 15-501, parcel #18911.

Mr. Tyson read from the staff notes, board discussion followed and some items noted were as follows:

- What is the nature of the buildings going on the spaces? Mr. Robinson noted they will be retail, medical and multi-story apartments.
- Questions about the apartments and whether or not they are non-residential. The apartments do not count as residential units, but they are part of the 2650.

- Questions about signs up looking to build to suit. They were under the impression you were further along with a deal. Lots 7, 8 and 9 were approved. There is a contract with a skilled nursing facility.
- The access to parcel 15, there's a 300' perimeter buffer and a 50' view shed buffer and the odd little extension. How does parcel 15 get access given there are the two buffers? Mr. Robinson said the only part that can be developed is the ½ acre piece.
- Need to be clear about what the restrictions are being for the perimeter buffer that it is a Final Plat, it needs to be shown on the plat and the line extended.
- Chair Siverson agreed and said there should be a condition to show the extended line, it is not clear on the plat
- Why do they want a different road name, it is confusing. Why isn't the name Market Chapel Rd Extension? Mr. Sullivan explained when Markets Chapel Rd was addressed it will run continuous like a loop. They are all 911 addresses.
- Concerns about having no trails or paths in the plans
- The BMP has gone up, common area # 4 encroaches into parcel 12. Mr. Robinson said that is access to the easement. He said if it encroaches it will be maintained by the association. Ms. Richardson said that Mr. Burkhart said it was approved.

Mr. Arthur made a motion to approve with condition; seconded by Mr. Galin

Ms. Weakley had a comment about the view shed and perimeter buffer that it be made more clear that this area is off limits. The developer said it is already unbuildable. Chair Siverson and Vice-Chair Lucier said that it was already clear.

Chair Siverson wanted it noted that it's a big disappointment that there is not a pedestrian access for areas across 15-501. She also stated that she knew it was not possible at this time. Ms. Weakley stated that property owners will have to get into their cars and drive across the street to access other areas.

Motion passed 8 to 2. Ms. Weakley and Ms. Moose voted against

4. Request by Lee Bowman, Project Manager, on behalf of NNP Briar Chapel, LLC for subdivision Final Plat approval of "Final Subdivision, Recombination, Easement, and Private Right-of-Way Dedication Plat of SD West-Parcels 16-22 and Commercial Common Area # 5", consisting of 7 non-residential lots and 1 common area lot, on 25.248 acres, located off SR-1529, Taylor Road and US Hwy 15-501, parcel #86288.

Ms. Tyson read from staff notes, board discussion followed and some items noted are as follows:

Vice-Chair, Lucier asked Ms. Tyson to explain the last condition that was added. Ms. Tyson said that it is asking for clarification with the CCCC site. Ms. Richardson added that condition 14g language was put in there for

the reservation substation and that the County Attorney thought an additional note should be added since the condition has not been met.

Mr. Robinson further explained that the 2012 CUP stated the developer reserves 5k square feet of shell space for the county to build a sheriff substation somewhere in SD East. The provisions say the shell would be built by the developer and that it would be up to the county or sheriff's department to work out an up fit for the purchase of the developer of that space. If it works out okay and if not that is how it goes. The obligation was to put the reservation of the 5k square feet in the first lot sold which happened to be Chatham County for the CCCC site. Chatham County did not want to reserve the 5k sq. ft and asked that it be moved be down to the next lot. The language puts the discretion to the developer, for example the next contract could be a restaurant and that would not make sense. Where as if it were to be a retail space that would make more sense. The provision also said that once the provision is put in a contract and it closes then it would not be a provision in another lot. There is nothing in subdivision ordinance that says a plat for lots in a subdivision has to identify all provisions. The issue Robinson has is that the language is vague, a concern from a private stand point is by putting the language on the plat you create the impression that every lot is subject to this note and it is not. They have worked it out and once it has been satisfied then they can do an amendment to the plat to remove the 14g note.

Ms. Weakley asked where is the Greenway connection on the map? It is not shown on this plat it was on the former plat per Mr. Robinson.

Ms. Weakley asked about the size of the buildings and what the guidelines are for setbacks, is there a cap? Mr. Sullivan stated there are height restrictions for residential, but there is flexibility with the buildings.

Motion made by Vice-Chair Lucier to approve with the condition; seconded by Mr. Gaeta.

Motion passed unanimously

VIII ZONING AND TEXT AMMENDMENTS:

1. A Legislative public hearing request by O'Mara Landscaping & Lawncare, Inc. to rezone 10 acres of the 31.89 acre tract from R-1 Residential to CD-CB Conditional District Community Business, identified as Parcel 2691, located at 4590 Mann's Chapel Road, Baldwin Township for a landscaping and lawn care contractor's business. *(continued from the March 6 meeting)*

Ms. Birchett read from staff notes and explained that at last month's meeting the request was tabled due to additional data that was provided in order for the planning staff to talk with applicant again to

see if the standards could be met with the new information, as noted on the bottom of notes.

There was an email and addendum given tonight with NCDOT approval and there was a modification to remove one of the driveways to alleviate some traffic concerns -Item 2 can be met.

Item 3-Plan Chatham document-They did provide additional information to support the land use plan. A lengthy section of the letter addresses their position of support for the land use plan. It is still planning staff opinion the standard has not been met based on the designation on the adopted plan map.

Item 4-applicants provided an economic analysis to support tax revenue sales tax increase, and job creation – Item 4 can be met.

Ms. Birchett said that the applicant's attorney, Ms. LeAnn Brown, is available to answer questions for the O'Mara's. Ms. Brown provided a letter that summarized the meeting she attended with the planning staff. She said the real focus was on item 3 and what to do for this request to go forward. She reported that the property has an old CUP that allowed an R1 zone to have music publishing business. It has created infrastructure. The O'Mara's have proposed to limit the rezoning to 10 acres with only about 3 acres being developed. They will live in the existing home located within the R1 zone of the parcel and work with what is already there by repurposing the buildings for this use. Plan Chatham wants to discourage business along the corridor, the reality is there is already a business there. Rezoning will allow continuance of that use to occur. By repurposing the two buildings and using the house, it's an easier transition.

Item 4 is useful for Plan Chatham as well. It demonstrates the additional tax revenue, purchasing supplies in Chatham County instead of out of county. Ms. Brown stated Plan Chatham is used as a guideline but the staff had a concern about the statement on page 67 referencing commercial strip areas. Ms. Brown noted again about the preexisting use and a detailed condition could be created for further acceptance of the use. The Land Use policy-importance of well buffered area, will not have an impact of corridor, and preserves vegetation and the rural character.

Ms. Brown said that the Economic Development section talks about promoting jobs, creating economic opportunities, etc. They feel this proposal meets that goal. She reported that the O'Maras living on the

site helps to keep this a rural type property and is a nice transition from the commercial corridor of US 15-501.

There are 5 factors and 4 have been met. Long range planning will help to meet the goals of Plan Chatham. It was also noted that this is the first time the board has had to deal with this since the adoption of the Plan Chatham. Some questions and concerns asked were:

- How much of the site is on Manns Chapel Road? Kevin said just the existing driveway, maybe 25 to 30 feet.
- The driveway itself will be changed for widening for emergency vehicle access.
- Concerns with parking area, a condition will be added about the west side property line and moving those parking spaces at least 50 feet from the property line.
- Will there be any additional buildings? Yes, just two greenhouses per the site plan
- You are adding a lot of impervious surface, gravel and paved areas. The pictures of the trucks, looks like they are pretty muddy. Applicant stated nature of the business. Staff stated that the washing of vehicles would not be permitted on site. They would have to get permits from the State and Environmental Health if they wanted to do that.
- What is the impervious surface? It is on the first page, Ms. Phelps and Ms. Birchett explained the total is 8% of the WSIV, 36% max in the WSIV-PA.
- How many trucks are there? The applicant noted there are 29 employees, 20 trucks and 6 enclosed trailers. He also added that these numbers have been shared with NCDOT.
- Not a lot of traffic during prime time hours.
- A recap of what a day would look like is around 7:45 a.m. maintenance staff arrive and they are out the door in 10 minutes. The landscapers are out by 8:30 a.m. and some may come back in the afternoon. The field crew then come in around 5:00 p.m. and usually everything is finished by 6:30 p.m.

Ms. Birchett asked for clarification about the comment Mr. O'Mara made about getting mulch in on the site. He said that Mr. Brockwell usually delivers mulch to the site and they can scoop up from a small pile at the location in the bays. There will be topsoil, mulch, bricks, pavers and rocks on site. Ms. Birchett clarified that the creation of mulch or grinding of mulch would not be permitted.

- Questions about how chemicals are stored. It was reported that at any one time they order 12 pallets of fertilizer and keep it on

site. Certified staff handle the chemicals and there are not tremendous volumes. All items are stored in OSHA approved cabinets indoors.

- Noted that it was great to recycle buildings as proposed in the request
- It was noted that Ms. Brown did a terrific job representing her client.
- It was stated by a board member that they should be flexible and he thinks we can recommend the request to the BOC.

Vice-Chair Lucier said the he struggled with the request since at first. Vice-Chair Lucier will support based on the driveway will look like residential, then you will get to the commercial part, and not a high volume traffic generator business. There is an existing business with a CUP not like rezoning. They are only asking for 10 of the 30 acres, the nature of the business will preclude dense residential on the property. It will be less traffic versus building 30 houses there. It is close to a neighborhood business and it will not impair the integrity of the area and he feels it is not problematic.

- The developer said they are open to moving the parking spaces if the board request them to do that.
- Concerns with piece meal case by case on Manns Chapel Road
- Need to stick with the Chatham Plan and the ordinances
- Concerns with the amount of traffic if housing was put there instead
- There is a flexibility component to the Plan Chatham

Ms. Weakley said that she appreciated the O'Mara's living there and repurposing the buildings and bringing a small business that will lend to economic prosperity to the area. She is conflicted about the traffic, residential versus business and it may not even pan out. Her concerns are about the traffic given that Briar Chapel hasn't completed all of their phases. There will be heavier traffic during school hours which is the worst time. She also has concerns that this is a residential area and agrees with planning staff's assessment that it does not meet the Chatham Plan and we need to follow the plan that was just adopted.

Mr. Arthur stated that he will support the request and it was not a big break with the plan. He said that it was not like a McDonalds or South of the Border; it is very rural. It justifies the change, if it was a big box store I would say no way.

Ms. Hager really appreciates the conservation and the work put in the plan, she echoes what Mr. Arthur said.

Ms. Moose said that she really struggled with this one and while it was a really cool business with significant value to the county. She struggles primarily because it doesn't fit with the land use plan and she appreciates that it is cost effective. She added that although the plan is used for guidance and not law, it's important to adhere to as much as possible along the way or we'll never deliver the vision set forth. She cannot support it and wished that it was in another part of the county but, it is not.

Chair Siverson believes in the land use plan and there was a lot of hard work put into it. She sees the merits of the proposal, it is already a business, and it's right on the boundary of rural and compact rural development. It's not that far from the community node. This business is a desirable one for the county. She also added that there is a note in the land use plan regarding the plan as a guide and to use it as a guide. Ms. Siverson read that note to the board. It will offer jobs and she encourages going out to other smaller businesses in Chatham to purchase supplies in lieu of always buying from the big box suppliers. Environmentally, the 20 acres in the back will be pretty much preserved. With these things in mind, she will support the proposal even though it's a challenge.

Ms. Moose added that she is not opposed to voting on the consistency statement and it is very important that it is determined that economics is not used as a primary factor when using and voting on the consistency statement. Vice Chair Lucier agreed with her comment.

Motion made by Mr. Arthur; seconded by Mr. Gaeta to approve with the following modified Consistency Statement decided by the board and read by Mr. Arthur.

It is the opinion of the Planning Board the request to rezone a portion of (10 acres of the 32.89 acre tract) Parcel No. 2691, located at 4590 Mann's Chapel Road, from R-1 Residential with a Conditional Use Permit, to CD-CB Conditional District Community Business is in support or compliance with Plan Chatham, the adopted comprehensive plan of Chatham County, which is a guideline not a requirement. The change in the property does not affect the integrity of the residential area and is in keeping with the rural character of the surrounding area.

Motion passed 7 to 3. Mr. Spoon, Ms. Moose and Ms. Weakley against.

Motion made by Vice-Chair Lucier to approve the request with the added condition: A 50' buffer setback between the parking area and the residential property to the west is required; seconded by Mr. Galin

Motion passed 7 to 3 Ms. Moose, Ms. Weakley and Mr. Spoon against.

1. A Legislative Public Hearing request by Richard Broedell, Sr. to rezone Parcel No. 5576, being 5.92 acres, Cape Fear Township, located on New Elam Church Road, from R-1 Residential to Light Industrial.

Ms. Birchett read from the staff notes and she said their attorney, Mr. Bradshaw was available to answer questions.

Mr. Bradshaw gave an overview of the business and said Mr. Broedell has owned this property for nearly 5 years and has looked at growing his masonry business. He has 7 employees, sub-contractors up to 50 staff. He reported that this is a permitted use, an easy request and meets the Chatham Plan. He does not believe the land use plan was meant to say that the purple employment center ring was only meant for land just inside that area. This property is across the street from a property that received general use rezoning in November 2017. There are numerous industrial businesses already in existence and this is an appropriate place for another business.

Board discussion followed and some items discussed were as follows:

- Regarding the streams on the NCRS map is it intermittent or perennial on the west side? No, it had not been determined yet by Environmental Quality even it does exist.
- Surrounded by residential and worried about the piece meal development
- Concerns about piece mealing
- It is a 4 lane highway, however; the surrounding area is all residential R1. Mr. Bradshaw replied and said that does not specifically mean residential. The access from the property does not have direct access from the 4 lane highway
- The bubbles in the Plan Chatham Map are not hard and fast

Chair Siverson said that this is a small parcel. Vice-Chair Lucier said the only problem was a number of months ago we went through and upgraded the list of LI vs. HI. He is not sure if the applicant has done justice and we should take another look at the list and what is required for a CUP. He continued to say it was not looked at in the context of rezoning residential to LI.

Mr. Bradshaw agreed with Vice-Chair Lucier and said he believes this is an appropriate thing for the board to do on an ongoing basis and that you are not going to have a heavy development with this request.

Mr. Spoon made a motion to approve the Consistency Statement; seconded by Mr. Galin.

Motion passed 8 to 2. Ms. Weakley and Ms. Moose against

Vice-Chair Lucier made a motion to approve the request; seconded by Mr. Gaeta.

Motion passed unanimously 10-0

2. A Legislative Public Hearing request by the Chatham County Board of Commissioners to adopt revisions to the Chatham County Subdivision Regulations to reflect recent legislative changes and recommendations by Planning Staff

Mr. Dylan Paul read from the staff notes and reported that this item was tabled at the March 6, 2018 Planning Board meeting in order to speak with the County Attorney regarding their concerns.

Board discussion followed and some points discussed are as follows:

- Main question is to take out the word “direct”. Mr. Sullivan reported that the County Attorney said there is no way to take it out.
- Did the county attorney look at it in reference to the federal law?

Vice- Chair Lucier said it is inconsistent with federal law and he cannot vote for it. He said that even if it is contrary to the General Assembly, he believes in being consistent with federal law.

Ms. Weakley discussed the riparian buffer on page 59 Section I of our ordinance. She said that it is currently written that it is a voluntarily riparian counts against density itself. She said it would be striking riparian buffers as usable areas. Mr. Sullivan said that when doing the calculations for additional lots, you have to allow for riparian buffers to count towards the usable lot calculations per state laws. This could allow for more lots under the density bonus allowance in conservation subdivisions. He said that when the UDO is looked at, this piece would be reviewed and that staff

