

## Chatham County Planning Board Agenda Notes

Date: December 1, 2020

Agenda Item: X-1

Attachment #: Provided on the Planning Department website

Subdivision                      Conditional Use Permit                      Rezoning Request      Other: X  
*Zoning Ordinance Text Amendment*

**Introduction & Background:** A legislative public hearing was held on August 27, 2020 to consider revisions and/or additions to the Zoning, Subdivision, and Watershed Protection Ordinances. Planning staff presented the request, and the applicants for the Vickers Bennett Group (Antonio McBroom, Wade Barber, Warren Mitchell, Andy Greene, and Mark Ashness) gave a presentation. Multiple comments were made from the public with concerns of septic, setbacks, water quality, and the viability of having up to 2 dwellings per acre.

Commissioner Howard asked who the changes would apply to. The response was that they would only apply to certain areas of the comprehensive plan (this has now been removed). Also, all amendments must interrelate and the Zoning Ordinance will trump.

Commissioner Dasher asked if single family and multi family could be done. Warren Mitchell responded yes, and Mark Ashness reminded the Board that there would still be a 24% BUA cap.

Chair Lucier provided questions from the Planning Board. They wondered why the existing ordinance is not adequate, what is proposed is similar to a village center but not historic, and there is a setback issue with the rest of the requirements in the Zoning and Subdivision Ordinances. Warren Mitchell responded that the current Mixed Use section does not allow for single family dwellings, the buffers proposed are 100', and they welcome any discussion in regards to the size and density.

Due to recent networking issues, original notes for the project are unavailable. Once the network is operable, we will distribute the original notes.

### Discussion & Analysis:

The Vickers Bennett Group is proposing amendments to Sections 5.2, 7.2, and 10.12.

#### Section 5.2:

- This section is amended by adding a new district titled CD-MU-CR - Mixed Use Cluster Residential: a mixed use development that provides for an integration of diverse but compatible uses into a single development that includes a single-family Cluster Residential component.

#### Section 7.2:

- This section is amended by adding two definitions as follows:
  - Cluster Development - the grouping of buildings in order to conserve land and provide for innovation in the design of the project.
  - Cluster Residential - a cluster development of grouped single family lots.

#### Section 10.12:

- This section is amended by adding a subsection. The current district, CD-MU Mixed Use, will be identified as section 10.12(a), and a new subsection, CD-MU-CR Mixed Use Cluster Residential, will be identified as section 10.12(b).
  - Much of the current CD-MU section is transferred to the proposed district. The changes include:
    - **A. Purpose** - adding single family cluster residential uses
    - **B. Minimum Size** - gross acreage has a minimum of 50 acres and maximum of 250 acres
    - **C. Maximum Built Upon Area Allowed** - the built upon area for the project shall be no greater than 24% of the total project area
    - **D. Permitted and Required Uses** - adds the term Cluster Residential, adds in Conservation Space and references section 7.8 of the Chatham County Subdivision Regulations (this is the proposed subdivision text amendment), and the non-residential purposes on the site plan shall not exceed the cumulative amount of land designated for residential purposes
    - **E. Cluster Area** - adds Conservation (typo, meant to read Conservation) Space as required by the Subdivision Ordinance, Sec. 7.8
    - **G. Exterior Boundary Setbacks** - adds or where adjacent to a public road right-of-way that is one-hundred (100) feet in width or more.

The applicants presented their request at the regularly scheduled November 10, 2020 Planning Board meeting. Staff presented the amendments and the applicants gave a presentation. From the public hearing and meetings with staff, concerns had been identified and addressed.

- BUA and units per acre calculation overlap
  - Limit the BUA to 24% of the total project area
- Limiting the location based on the Comprehensive Land Use Plan (CP)
  - The CLUP is a policy, not an ordinance. This section was removed by the applicant
- Variance of the setback
  - Provide for a continuous 50' building setback where the boundary fronts on a 100-foot-wide public road right of way
- Section D
  - Open Space is replaced with the term "Conservation Space"
  - At least 20% of the BUA be non-residential, and that non-residential not exceed the residential area and deletes the requirement that one be built before the other
  - Inserting Compact Residential where omitted and deleted a hyphen in Mixed Use

Ms. Koblansky had multiple comments and concerns in regards to the impact on existing surrounding communities, the proposal and varied situations across the county to include water and septic availability, how the 24% BUA will be calculated, and a vegetative buffer and what will be allowed within the 100' setback. Janie Phelps responded to the concerns that could be answered by staff. As far as water and septic, once a project is submitted, this is evaluated. Environmental Health has specific regulations for well and septic requirements. Antonio McBroom also commented that the Vickers Bennett team does not have deaf ears to water and waste-water concerns. There is correspondence with Paul Clark who works for NCDEQ on the density of the proposed amendments, and will provide these comments as soon as they are made available. The BUA is for the entire project area. Landscaping requirements are located in Section 12, and only vegetation and signage is allowed within the buffer.

Mr. Esther's concerns included the absence of geographic restrictions, current regulations (PRD and Conservation Subdivisions) are valid now, the environmental impact of 2 dwelling units per acre, and that the proposed amendments are flawed and do not meet the objectives of Plan Chatham. Janie Phelps stated the applicants could address these concerns.

Chair Lucier asked if the CCO could be amended, and Vice-Chair Siverson asked if the CCO as written could work. Mr. Barber responded that in having discussions with planning staff, they had mentioned that and determined that the CCO was designed for a very large development (exceeding 1,000 acres) like Briar Chapel, and amending the CCO to fit developments 250 acres and under would not work. Warren Mitchell stated that there would be too many amendments/variances in order to try to make the CCO work for this size of project.

Jason Sullivan confirmed there would be many waiver requests in order to make the CCO work for smaller developments. The applicants have been advised to look closely at all aspects of the CCO and see what could be transferred into a small mix-use development. The higher residential density request needs to be thoroughly analyzed and compared to what is in the CP and how it relates to different types of mixed-use districts, particularly as we work through the UDO process.

Warren Mitchell summarized the proposal. Currently, the mixed use zoning does not allow single family dwellings, but surrounding mixed use projects (Farrington, Southern Village, Briar Chapel) do have single family. They adopted conservation subdivision guidelines because the Planning Board, staff and Commissioners approved and liked them. He then addressed specific concerns from citizens. The CP has a medium density zone and low density zone. With low density, there is still an option of allowing a 10% bonus, but chose 2 units per acre because it is low density per the State watershed rules. It is proposed to keep 40% conservation land for the entire project, whereas the existing mixed use does not have a requirement for conservation land. The request to include Light Industrial uses could possibly be removed from the proposal. Mr. Barber stated they want to create policy for a walkable mixed use community that is desirable by the county and be developed.

Chair Lucier gave an example breakdown for a potential project. 100 acres = 200 single family residences, 40 acres will be open space, 25 acres commercial, and 35 acres would house the 200 single family homes which equates to 6 residences per acre. Mark Ashness explained that conservation area and open space would be intermingled between both mixed use and single family residential areas.

Jon Spoon made comments that this could be a stop gap with some flexibility prior to developing the UDO, and that it seems as though Briar Chapel excludes small businesses, whereas this proposal would encourage it. Chair Lucier asked if there could be commercial businesses with residences above. Warren Mitchell stated that this is an option.

Allison Weakley had concerns about what would be going into the natural space. Mr. Barber stated there are no current plans to have anything in the conservation space at this time. Ms. Weakley stated she doesn't want to see the already required regulatory stream buffers to satisfy most of the natural space because buffers are required. Warren Mitchell responded that traditional subdivision lots could include streams on lots and this would be difficult to restrict unless this was in a conservation area. Ms. Hager stated that even if the 40% includes riparian buffer areas, that is still a large amount of conservation space. Ms. Weakley responded that if 40% is the target, if stream buffers, septic, wells, and stormwater management would need to

happen anyways, is it really conservation? Ms. Hager agreed. Chair Lucier stated that open and natural space needs to be clearly defined.

Jon Spoon, Chair Lucier, and Jamie Hager favor the concept, but do not want to rush into making a decision. A motion was made by Bill Arthur to table the text amendments until the December 1, 2020 meeting, was seconded by Clyde Frazier, and a 11-0 vote in favor to table the discussion.

**Subject:** A Legislative public hearing for a request by Vickers Bennett Group, LLC to amend the language in the Zoning Ordinance, Sections 5.2, 7.2, 10.12 to accommodate language for Conditional District Mixed Use Cluster Residential (CD-MU-CR).

**Action Requested:** See Recommendation Attachments: Please visit the Planning Department webpage, Rezoning and Subdivision cases, 2020 for public comments that have been received.

The Planning Board has 2 meetings in order to make a recommendation.

**Recommendation:** Please review the attachments and application provided.