

CHATHAM COUNTY PLANNING BOARD
MINUTES
September 2, 2008
Agriculture Extension Building, Pittsboro, NC

The Chatham County Planning Board met in regular session on the above date in the auditorium of the Agriculture Extension Building in Pittsboro, North Carolina. A quorum was present to begin the meeting. The members present were as follows:

Present:

Sally Kost, Chair
Warren Glick, Vice-Chair
B. J. Copeland
Karl Ernst
Barbara Ford
Judy Harrelson
Jim Hinkley
David Klarmann
Susan Levy
Peter Theye

Absent:

Delcenia Turner

Planning Department:

Keith Megginson, Planning Director
Jason Sullivan, Assistant Planning Director
Lynn Richardson, Subdivision Administrator
Angela Birchett, Zoning Administrator
Kay Everage, Clerk to the Board

- I. CALL TO ORDER: Chair Kost called the meeting to order at 6:30 p.m.
- II. APPROVAL OF AGENDA: Mr. Glick made a motion; seconded by Mr. Hinkley to approve the agenda as submitted. There was no discussion and the motion passed unanimously. (10 Board members)
- III. CONSENT AGENDA: Mr. Hinkley made a motion; seconded by Mr. Glick to approve the consent agenda as submitted. There was no further discussion and the motion passed unanimously.
 - A. Minutes: Consideration of a request for approval of Planning Board minutes for August 5, 2008 meeting.
 - B. Final Plat Approval:
Request by J & B Partners, LLC for subdivision final plat approval of Bingham Ridge, Phase II, consisting of 15 lots on 26 acres, located off Lamont Norwood Road, S. R. 1536, Baldwin Township.

Note: No adjacent landowners requested to speak regarding Bingham Ridge, Phase II. A gentleman in the audience (who did not give his name) stated that he was present representing Bingham Ridge.

End Consent Agenda

IV. PUBLIC INPUT SESSION: Fifteen-minute time of public input for issues **not on agenda**. Speakers limited to three minutes each.

There were no requests to speak at this time.

V. PRELIMINARY PLAT APPROVAL:

- A. Request by The Parks at Meadowview, LLC for subdivision preliminary plat approval of "The Parks at Meadowview, Phase 2", consisting of 182 lots on 173 acres, located off Old Graham Road, S. R. 1520, Center Township.

Chair Kost stated that the Planning Board postponed this issue during last month's Planning Board meeting. Mr. Megginson stated that agenda notes have not changed from last month; that there was some confusion regarding a private lawsuit that was filed; that the county attorney has advised that the Board not consider this lawsuit; that the applicant has taken what had been a section that had final approval (but map was never recorded and developer backed out); and that those 61 lots are now being reincorporated into this Phase 2.

Chair Kost stated that she discussed this issue last week with the county attorney regarding what happens when a plat is not recorded; that the attorney stated that if it is within the development schedule and is still consistent with the sketch design it would go back to preliminary plat; and that this is what the developer is requesting.

Board discussion followed. Mr. Megginson stated that the Board has the following options:

- approve as submitted
- approve with revisions
- deny [for specific reasons why it doesn't meet regulations]

Mr. Glick made a motion; seconded by Mr. Klarmann to grant approval of the road names 'Daisy Drive', 'Parkway Drive', 'Adventure Lane', 'Discovery Drive', 'Pine Straw Place', 'Eagles Nest Loop', 'Grassy Knoll Court', and 'Misty Glen Lane', and preliminary plat approval of Phase 2, consisting of 182 lots, as submitted and as recommended by staff, with the following two (2) conditions:

1. Verify with NCDOT the width and length required for 'public drainage easements'.
2. Any required environmental monitoring report shall be provided to the local County office of the Health Department **and to the Environmental Review Board**."

Discussion followed. Ms. Ford asked why the buyer never acquired Phase 2-A as had been anticipated. Mr. Robinson stated that he was unsure why since he did not represent them. He noted that there were several reasons why many of deals such as this one went different direction during that time in 2007.

Mr. Theye asked that the minutes reflect that some Planning Board members' feelings are not quite right regarding this request and that the issue remains unsettled.

The motion for approval passed unanimously.

Adjacent landowner

Mary Lassiter, 198 Major Lee Road

Ms. Lassiter stated that, since last month's meeting, she checked her land following the recent rain and did not find any runoff. She voiced concern that the developer should be responsible for any runoff that might occur from the existing stream after construction begins for the 182 proposed sites.

Discussion followed regarding the spray irrigation system on the proposed property and its monitoring. Mr. Copeland commented that he has a spray system on his farm; that DWQ inspects the system yearly; and that he has had no runoff or environmental problems.

VI. ZONING AND ORDINANCE AMENDMENTS:

A. Revisions to the Subdivision Regulations

Subdivision Regulations Subcommittee members present:

Sally Kost, Barbara Ford, Judy Harrelson,
and Paul Black, facilitator
[Note: Del Turner was absent].

Format

Chair Kost stated that there was a transmission problem with the graphics in the Subdivision Regulations document distributed to the Board; that corrected pages (20, 22, 26, and 28) were distributed earlier tonight; and that the format planned for tonight's discussion was to proceed (as was done with the Zoning Ordinance) reviewing the various changes starting from the beginning and working through the document.

Overview of changes

Mr. Black distributed an overview of the changes titled:

"Memorandum dated 9/2/08
to Chatham County Planning Board"
(One page –front and back)

He stated that some new definitions were added along with revisions regarding financial guarantees; that some major changes were,

- 1.) format change, i.e. word processing document, and,
- 2.) process, i.e. Section 5.

Section 2 – Definitions

Page 9

Minor Subdivision:

New streets / roads

Mr. Klarmann was uncertain about the wording, “***not involving any new streets or road***”. He stated that he was not sure how this would be done when creating a minor subdivision that doesn’t involve any new street or road. Mr. Black explained that this applies if the subdivision fronts existing streets and no new roads are necessary. Ms. Richardson stated that a private easement is not considered a new road improvement. Ms. Kost stated that increasing the number of lots for a minor subdivision may t be revisited at a later time.

Page 8

Mr. Hinkley suggested the following additions to definitions on pages 8 and 13:

- ***Land Development Conservation Plan*** – after “Interior Lot”, and

Page 13

- ***Zoning Ordinance*** – after “Water Hazard Area”

Additional revisions

Mr. Megginson stated that staff would forward additional minor revisions to the “definitions” section to Mr. Black after tonight’s meeting.

Mr. Black reviewed revisions as follows:

Page 20

Step 1. Concept Process

Specifics noted

- Added - Mandatory Meeting with Neighbors/Community
- Define - “Staff Technical Review Committee” in definitions section

Page 19

5.2 Major Subdivision, A. General Procedure

Add language

- Add language to paragraph (1) “Assist the developer in the sound, **environmentally appropriate**, and economical development of.....”

Page 21 – B. Concept Plan

4. Mandatory Meeting with Neighbors/Community

Difficulty in details

Mr. Megginson stated that these meetings have been discussed at various times and are encouraged; that the difficulty is in the details (i.e. adequate notification, residents within 400’ of the proposed property) that if this remains, the developer would be responsible for posting properties with a sign; and that the Planning Department uses public hearing signs for zoning notification.

Signs for posting property / notification letters

Board discussion followed regarding the type of signs the developer would use for property posting and staff mailing of notification letters. Mr. Copeland noted that signs should be consistent. Mr. Klarmann noted that there are instances where a developer/applicant might purposely omit an adjacent landowner from the mailing list, i.e. not advising competitors of future plans. Mr. Megginson stated that the Board has tabled a request when an adjacent landowner didn't receive a letter of notification. Chair Kost stated that later in this document the Board would be discussing a revision requiring a public hearing for subdivision requests.

Specifics noted:

- Insert language in Guidelines that states that signs be consistent and are posted along major roads
- Developer provide a return form that states that there was a meeting with a list of people who attended and details as to when and where the meeting was held.

Rita Spina, 12 Matchwood, Pittsboro, NC, and member of the Chatham County Commercial Corridor Ordinance Task Force, stated that it has been her experience that if people are approving a request you will not hear from them again; that some of the concerned citizen would attend public hearing; that some citizens would submit their concerns in writing; that she doesn't think documentation is needed; but that the developer could provide information regarding the meeting, i.e. date held, number attending.

Page 22

B. First Plat; Step 2. First Plat Review

Mr. Black reviewed the plat process as outlined in the chart.

Specifics noted

- Strike the word "Staff" in block at top that reads "Staff Review and Site Visits"
- Footnote – spell out acronyms

Adequate Public Facilities was discussed. Mr. Sullivan stated that the zoned areas of the county could have an Adequate Public Facilities Ordinance but not the unzoned areas.

Holly Duncan was present representing the Chatham County School Board. Ms. Duncan stated that her Board met on the first day of school (August 25, 2008) and the number of students was compared with those of last year's; that the increase number was not significant; and that there was no school that had an increase of more than 20 students.

Ms. Ford stated that she does not understand why the Commissioners, as part of having all the ordinances updated, did not include an "Adequate Public Facilities Ordinance"; and that that this should have been a part of this process.

Specifics noted:

- Public Hearing – flag for where this best fits in the review process

Mr. Copeland suggested that “Public Hearing” be attached to the “Planning Board” block directly above the Public Hearing block.

Loyse Hurley, 16 Matchwood, Pittsboro, NC, and member of Chatham Citizens for Effective Communities [CCEC], was present. Ms. Hurley noted two specifics:

- Planning Board and County Commissioners should want the benefits of the comments made at the public hearing
- Solve this by having a joint public hearing.

She stated that after hearing comments from the public the Planning Board could then forward a recommendation on to the Commissioners; and that the Commissioners could address any public concerns based on comments received at the public hearing.

Mr. Black stated that the problem that the committee was trying to solve was that the Planning Board hears things as evidence after the public hearing; and that there is not as much flexibility that the Planning Board would have after development proposal is initially heard.

Mr. Megginson asked why have a public hearing for subdivisions? He stated that the developers would have already had a meeting with neighbors explaining the proposal; and that the development is already in the right zone and by right can be developed as proposed. Chair Kost explained that the thinking was that citizens are allowed to make comments and that this process gives structure to that. Mr. Ernst referenced the Planning Directors comment that we are not required by law to hold a public hearing; and that the Planning Board offers the courtesy at Board meetings for landowner’s input.

- Chair Kost suggested flagging this item for further discussion.

The next block referenced read:

“BOC votes; determines if next 2 steps will be administrative approvals or will need to come back to BOC”

Chair Kost noted that if the first plat review (Step 2.) is denied by the Commissioners the developer would have to wait one (1) year before resubmitting.

Page 26

C. Construction Plan; Step 3. Construction Plan

Specifics noted

- Administrative step to speed process
- Doesn’t go to Commissioners unless requested by the Commissioners or if there have been significant changes
- Need parameters (Page 27), i.e. 1 lot, 15%
- Should not be any changes other than minor

Page 28

E. Final Plat; Step 4. Final Plat

Specifics noted

- Staff reviews and determines conformity and if everything is in order the plat is recorded
- Note “significant” changes defined
- Financial Guarantee – how would this be handled, i.e. County attorney, letter of credit, cashier’s check, bond - see page 14 Section 3

5 Minute Break

Following the break, Chair Kost stated that the document was reorganized somewhat making it difficult at times to track back to the original document.

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C. Community Assets; 7.7 Conservation Subdivision – Alternative Standards for Development

Select area of land, community fields, density

Mr. Klarmann stated that it would take a select area of land to accommodate this type of conservation subdivision. Community fields and density were discussed. Chair Kost noted that she recently attended a meeting of the Chatham Conservation Partnership; that conservation subdivisions were discussed; and that technology is changing so rapidly that these type systems are becoming more common.

- Density calculations – flood plain areas not included

Page 53

7.7 B. (1) a. Topographic Features and Erovable Slopes

“Slopes greater than twenty-five (25%) and/or soils with a **RUSLE K-Factor** (Kw) of 0.49 or higher anywhere within the upper 12 inches of soil, as provided in the Physical Soil Properties table of the Chatham County Soil Survey”.

RUSLE K-Factor

Mr. Megginson stated that this refers to how readily soils erode

Page 45 - 46

7.3 Blocks; B. Connectivity (1) Connectivity Defined

Two major changes:

- Reduction of the maximum block length (1/8 mile)
- Index addition

Cul-de-sac length

Mr. Hinkley suggested adding a box to the diagram on page 46 to include “cul-de-sacs”, i.e. max. 600 feet. Mr. Klarmann stated that the length of a road should not be mandated.

- Road lengths - flag to revisit, i.e. number of lots versus length of road

Connectivity

Mr. Megginson noted that the Planning Board recommended that Briar Chapel have three (3) different places for connectivity to existing roads but the Commissioners did not want the connections. Chair Kost cited the need for more information regarding connectivity. Mr. Hinkley noted that APA has several publications titled, “Planning and Advisory Service” for Planning Boards.

Page 3 - 4

1.14 Prohibited Acts, Enforcement, and Penalties

Specifics noted

F.

- Penalty fees need updating, i.e. existing language except last sentence regarding “stop work order”
- Use zoning penalty for violations – incorporate into Subdivision Regulations
- Flag this issue for review by County attorney

G.

- New language , i.e. clearing of land

Time Limits

Chair Kost stated that she recently spoke with Jep Rose, Chatham County Attorney, regarding when the time begins for the 60 day preliminary plat or construction (when does the clock start ticking) i.e. Henderson Place subdivision; that the issue is that the Planning Board has the time to begin when it is on the Planning Board agenda; that which exact agenda was the question, i.e. approved, printed, under consideration; and that Mr. Rose suggested that the Board consider having the time limits begin at the time the submittal is complete.

- Time limits - would be discussed further.

Page 40

7.1 Suitability of the Land

- Environmental consultants reviewing issue of “slopes”, i.e. possible separate stand alone ordinance
- 7.1 a. will probably end up looking like 7.1 b. and refer to all other ordinances

Mr. Ernst was unsure of the first sentence that states, “Land, which the Board of Commissioners has ***found to be unsuitable for development*** includes the

following”: Mr. Black stated that this language would probably be deleted from the document.

This concluded review of the Subdivision Regulations.

Special meeting

Chair Kost stated that the Board needs to schedule a special meeting to finish the outstanding questions; that any outstanding zoning issues and questions were to be forwarded to Mr. Black; that this now includes subdivision issues as well.

Following discussion, it was the consensus of the majority of the Board that the special meeting be held on **Wednesday, September 17, 2008 at 6:30 p.m.** and that Staff would advise where the meeting is to be held as soon as determined. Mr. Black stated that he would try to send the revisions... Chair Kost noted that Mr. Sullivan would be providing the Board a map showing all the B-1 Business properties in the county that will be helpful information when reviewing the table of uses.

Mr. Ernst voiced concern regarding the time frame (only two weeks to review) for completing these revisions and the rush to do so. He stated that he had an early meeting in the morning and would need to leave at this time.

Mr. Ernst left the meeting at this time (9:15 p.m.)

B. Items for September 15, 2008 Public Hearing

Note: Items 1 – 5 are scheduled for the upcoming public hearing and application material was distributed to Board members earlier tonight.

1. Public Hearing request from Richard Weston-Jones for a text amendment to the Chatham County Watershed Ordinance, Attachment A, Permitted Uses, to add “Owner-occupied bed and breakfast homes with no more than two (2) rooms/units for rent to stays no longer than seven (7) consecutive days and located on legal, non-conforming and conforming lots of record, on at least one and one half (1.5) acres, which may have standard set backs as set in the district in which they are located.”
2. Public Hearing request from Fernando & Meredith B. Cardenas for a text amendment to the Chatham County Watershed Ordinance, Attachment A, Permitted Uses, to add “Horse Veterinary Clinics on tracts of land greater than ten (10) acres.”
3. Public Hearing request from Irene Faircloth Gattis and Joseph Mosnier dba Historic Mann’s Chapel Event Center & Café to rezone approximately 4.545 acres, Parcel No. 62230 (1.4 acres) and Parcel No. 62254 (3 acres out of 6.61), Baldwin Township, located off Poythress Road and Lamont

Norwood Road, from O & I (office and institutional) and RA-90 (residential/agricultural) to Conditional Use B-1 Business district.

4. Public Hearing request from Irene Faircloth Gattis and Joseph Mosnier dba Historic Mann's Chapel Event Center & Café for a conditional use permit on approximately 4.545 acres, Parcel No. 62230 (1.4 acres) and Parcel No. 62254 (3 acres out of 6.61), Baldwin Township, located off Poythress Road and Lamont Norwood Road, for a eating and drinking establishment, a catering establishment, retail associated with the same, and for uses and structures customarily ancillary to such uses (including events and receptions).
5. Public Hearing request from Carolina Meadows, Inc. for a revision to the existing conditional use permit, Parcel No. 62114, 64734, 20033, 74450, located off Whippoorwill Lane, Williams Township, to develop the residual land within the existing boundaries to add 35 duplex villas and relocate the maintenance facility, reconstruct a new health care facility, and various other changes to existing structures and parking areas.

VII. OLD BUSINESS:

No items were discussed.

VIII. NEW BUSINESS:

- A. Discussion Chatham County Appearance Commission Design Guidelines Review

There were no members of the Chatham County Appearance Commission present.

Guidelines part of Zoning Ordinance

Mr. Sullivan stated that he understood that the Appearance Commission Design Guidelines would be incorporated into Section 12 (Landscaping and Buffering) of the Zoning Ordinance draft revisions. Mr. Glick concurred with Mr. Sullivan.

Ms. Birchett stated that one consideration in making this part of the Zoning Ordinance would be for the Board to decide if this is to apply to all commercial properties, straight zoning, as well as conditional use permits that currently apply.

Board discussion followed. Mr. Klarmann voiced concern that sometimes a tree needs to come down, i.e., road. Mr. Glick stated that the Board has not reviewed the Design Guidelines and that it would be difficult to insert them into the ordinance at this time. Chair Kost inquired if the Zoning Subcommittee could review these before the Planning Board meets again September 17th; and to make a recommendation to the Board at that meeting. Mr. Hinkley stated that this could be done. Ms. Ford noted some confusion in the ordinance language that refers to "Guidelines" since these guidelines become part of the ordinance. Mr. Black stated that various parts of the guidelines would be pulled out that belong in the ordinance (things recommended to be done); and that some other

listings (species, detailed range of things) are pulled out and put into the guidelines. Mr. Sullivan noted that these guidelines affect some parts of the Major Corridor Ordinance. Mr. Glick stated that in his review of the guidelines he was surprised to learn that they were adopted in 1999; that he is concerned that these are not being followed and to what extent; and that the term “guideline” means that they do not have to be followed. Chair Kost noted that the Major Corridor Ordinance is part of the Zoning Ordinance (i.e. an overlay); and that tree protection has been discussed by both subcommittees and could be recommended that this be studied further. *Conclusion*
Chair Kost reiterated that the Zoning Subcommittee would be meeting prior to the September 17th Planning Board meeting and that a recommendation would be presented at that meeting regarding how to handle the Design Guidelines (i.e. what needs to be in the actual ordinance and/or guidelines). She stated that both zoning and subdivision issues would be discussed during the special meeting September 17th.

B. Planning Director’s Report

1. *Date for Workshop for Corridor Business Rezoning Properties on November 20th, 2008*

Mr. Megginson stated that the Board of Commissioners scheduled this meeting to meet with various property owners to determine what is to be done with their properties, i.e. zoning land within the corridors; that Planning Board members are welcome to attend the meeting; and that the Planning Board would probably be making a recommendation after a public hearing is held.

C. Planning Board Members Items:

1. *Community Forum*

Chair Kost reminded Board members of the following meeting scheduled to discuss the proposed revisions of the Zoning Ordinance and Subdivision Regulations:

Community Forum
Tuesday, September 30, 2008
6:30 p.m. - Auditorium – Agriculture Extension Building
Pittsboro, NC

2. *Appreciation*

Mr. Copeland thanked everyone for the cards and concern he received during his recent surgery.

3. *Discussion of request for extensions with additional conditions*

Mr. Glick stated that this issue has come before the Board more than once when someone has requested an extension on a particular project; that he has asked that the developer offer the county something in exchange for that extension; that if we have a signed contract for a project (with or without conditions attached) and a change is requested then we have the right to ask in return for other changes in the terms in the contract, i.e. more buffering and etc.; that some think that this is not our right; and that he asks the feelings of the Board regarding this issue.

Chair Kost stated that she has spoken with the county attorney and Mr. Megginson regarding this issue; that there are still questions; that the opinion of the county attorney is that the process would have to start over, i.e. public hearing; that the developer does have to agree to any new conditions; and that the attorney is researching this further.

Mr. Glick stated that he understands that the developer would have to agree to conditions; but that if the developer does not agree with conditions being put forward then that would allow the Planning Board to not agree with giving the extension. Mr. Glick cited that he recently spoke with a couple of people who spent many years in this field; that one was in a nationwide situation building shopping centers; that the person agreed with him and stated if he asked for an extension other conditions could be offered; that the second person had been in the land appraisal business and gave the same response; and that this seems to be a standard operating procedure across the country, i.e. changing the terms of your contract.

Chair Kost stated that it is her understanding that this is consistent with the county attorney's opinion; that the attorney gave an example of the issue of vested rights; and that even though the conditional use permit expires the county or local government could not stop the project from moving forward.

Mr. Megginson stated that subdivisions are based on the applicant's development schedule; and that if there are reasons beyond their control (such as Division of Water Quality or Corps of Engineers not being able to do their determinations because of weather conditions) then it is legitimate to grant an extension.

Board discussion followed regarding various situations that might possibly warrant negotiations. Mr. Hinkley stated that examples were, "The Parks at Meadowview", and "The Glens".

Motion

Mr. Glick made a motion; that the Planning Board accepts a request for an extension or other change in the form of the original agreement as allowing the Planning Board to request changes from the Board's prospective. Mr. Klarmann seconded the motion and the motion passed 8-1 with Glick, Klarmann, Kost, Ford, Harrelson, Hinkley, Levy, and Theye voting in favor of the motion; and Mr. Copeland voting against. Note: Mr. Ernst was not present during this vote.

IX. ADJOURNMENT: There being no further business, the meeting adjourned at 9:43 p.m.

Sally Kost, Chair

Date

Attest: _____
Kay Everage, Clerk to the Board

Date