

MINUTES
CHATHAM COUNTY BOARD OF COMMISSIONERS
CORRIDOR ZONING PUBLIC HEARINGS
SPECIAL MEETING
APRIL 27, 2009

The Board of Commissioners (“the Board”) of the County of Chatham, North Carolina, met in the Superior Courtroom, 1 Hillsboro Street, located in Pittsboro, North Carolina, at 6:00 PM on April 27, 2009.

Present: Chairman George Lucier; Vice Chair, Sally Kost; Commissioners Mike Cross, Carl Thompson, and Tom Vanderbeck, County Manager, Charlie Horne; County Attorney, Jep Rose; Clerk to the Board, Sandra B. Sublett, Assistant Planning Director, Jason Sullivan; Land Use Administrator, Angela Birchett; and Planner, Ben Howell

The Chairman welcomed those in attendance and called the meeting to order at 6:05. He explained that the special meeting is a public hearing on existing businesses along the major corridors; that the reason for the public hearing is that when the corridors were zoned (1,500 feet on either side of them), many of the businesses there became “non-conforming”; that a “non-conforming” business means that one can expand but the business cannot be changed; that the Board wanted to zone the existing businesses according to the current classification to give more flexibility to the business owners; that if one’s property is currently used in light industry, heavy industry, or a business activity, the purpose of the public hearing is to receive public comment on zoning it in that category; that way the business owner would have the opportunity and flexibility of changing their business if economy dictates or if it is something that they wish to do; that otherwise, it would stay “non-conforming” which would allow the business to expand but not change without additional approval by the Commissioners; that the night’s process is not a decision-making process but a process to receive public comments to be heard by the Board of Commissioners and the Planning Board; that after the meeting, the Planning Board will make a recommendation to the Board of Commissioners after which the Commissioners will make a final decision, possibly in June.

Public hearing request to rezone all or a portion of parcel #60115, owned by KAPP ROBERT J & MCGINNIS BRIAN, from Residential 1 to Light Industrial

Jason Sullivan, Assistant Planning Director, explained the specifics of the request.

Robert Kapp, 747 Crabtree Crossing Parkway, Cary, NC, stated that the comment about not changing a non-conforming business concerns him; that in fact, they cannot expand; that the message from the Board and the message in the mail are inconsistent; that he is frustrated that he will not be able to expand; that his request is that his entire property be zoned light industrial, not just 2/3 of the property; and that by split-zoning they are not allowing them to expand.

Brian McGinnis, 104 Landsen Court, Cary, NC, stated that the parcel was purchased for self-storage; that they are asking for the entire parcel to be zoned light industrial; and that all they want to do is continue their business plan as originally planned.

Public hearing request to rezone all or a portion of parcel #8924, owned by MOORES MACHINE CO INC, from Residential 1 to Light Industrial

Jason Sullivan, Assistant Planning Director, explained the specifics of the request.

There was no one present who wished to make public comments.

Public hearing request to rezone all or a portion of parcels #63897 and #60964, owned by HORNER CHARLES LEONARD & CHUNG, from Residential 1 to General Business

Jason Sullivan, Assistant Planning Director, explained the specifics of the request.

There was no one present who wished to make public comments.

Public hearing request to rezone all or a portion of parcel #5971, owned by FOUSHEE FRANK T & EMILY & CARM, from Residential 1 to Heavy Industrial

Jason Sullivan, Assistant Planning Director, explained the specifics of the request.

Tom Terrell, 300 North Greene Street, Suite 1400, Greensboro, NC, attorney for Ferrellgas, stated that historically, this use has fit-in quite nicely in this area; that use predates Ferrellgas; that they would like the ability to expand beyond its current footprint; that visually it is a very narrow site; that whatever you see right now is what you will see for several years, even if the site expands; that it is a low traffic generating use; that anyone who has moved to this area has done so with the knowledge that there is a bulk propane storage facility and it has not hampered the development; and that they support the request to expand the zoning.

John Gordon Wright, 4995 Old Graham Road, Pittsboro, NC, stated that he lives right next door to the Ferrellgas storage facility; that his shop is 30-35 yards from their big tank; that it is nothing but a bomb waiting to go off; that he smelled gas all day where he lives; that they have had one truck come in and turn over; that no one notified the neighbors until they saw it and were evacuated; that he didn't find out the gas system was going in until they were putting the footings in for the big tank; and that he is against the rezoning as heavy industrial.

Patrick Bradshaw, 128 Hillsboro Street, Pittsboro, NC, representing Frank and Emily Foushee, urged the Board to zone all of parcel #5971, which contains approximately ten acres, to the heavy industrial district for two reasons: 1) The entire property is leased to Ferrellgas, LP for propane storage purposed as shown by a recorded memorandum of lease, a copy of which he left with the Clerk for the record; and that propane storage is only allowed in the heavy industrial district; 2) If only a portion of the property is zoned to heavy industrial, the Foushees would have to subdivide the remainder of the property in order to use it for residential purposes; that this is problematic for several reasons:

A. The subdivision process is expensive and uncertain.

B. The Foushees might not be able to subdivide the parcel because they have no certain means of access to the rear portion of the property; that the private easement on the south already serves at least two residential subdivision lots and is the Foushees only route of access to their existing adjoining property to the west; that Ferrellgas might not agree to allow a new access easement through the front of the property, but even if Ferrellgas would agree, a new access would interfere with the use of the commercially zoned portion of the property, and there might not be room to run an access road between Ferrellgas's existing facilities and the inactive waste lagoon on the property; that lagoon is subject to the jurisdiction of the Division of Water Quality (DWQ) of the North Carolina Department of Environment and Natural Resources and cannot be disturbed or undermined in any way unless it is officially closed by DWQ; that the lagoon is also subject to the County's Watershed Protection Ordinance which requires 50 foot buffers around it, leaving little room for a new access easement; that if the entire tract is kept in a single zoning district, the Foushees will have the chance to keep the entire tract in productive use without subdividing it, which they might not be able to do otherwise.

Mr. Bradshaw stated that the principle behind these corridor rezoning is to zone properties with existing commercial uses consistently with their uses; that the Foushees' entire property is leased for heavy industrial purposes, and rezoning only the front portion

would effectively deny them the use of the rear portion; and that fairness and equal treatment under the law require that the entire tract be zoned heavy industrial. He thanked the Board for their consideration.

Public hearing request to rezone all or a portion of parcel #75440, owned by B G GAINES & SONS OIL CO INC, from Residential 1 to Heavy Industrial

Jason Sullivan, Assistant Planning Director, explained the specifics of the request.

There was no one present who wished to make public comments.

Public hearing request to rezone all or a portion of parcel #78285, owned by FAIR DENNIS M & STARR H, from Residential 1 to General Business

Jason Sullivan, Assistant Planning Director, explained the specifics of the request.

Dennis Fair, PO Box 1867, Pittsboro, NC, stated that the general business would meet their needs; that there are several mixed uses proposed; that one proposal was a recreational vehicle (RV) park; that there is only 291 feet of road frontage and with 50 ft. setbacks it would be difficult; that he asked whether they would be able to put a road in the setback; that he asks that it be clarified; that they have 30 acres of unusable property; that buffering can be done through various means; and that the general business classification meets their needs, but they have concerns with buffering and usable space.

Public hearing request to rezone all or a portion of parcel #8931, owned by GAINES MARY LISA & GAINES BEN PHILIP JR, from Residential 1 to General Business

Jason Sullivan, Assistant Planning Director, explained the specifics of the request.

There was no one present who wished to make public comments.

Public Hearing request to rezone all or a portion of the business properties located within 1500 feet of Moncure-Pittsboro Road from the Town of Pittsboro extraterritorial planning jurisdiction to US #1

Jason Sullivan, Assistant Planning Director, explained the specifics of the request.

Negest Kinte, 102 James Street, Carrboro, NC, stated that she was an adjoining property owner; that the property has been in her family for over 150 years; that she feels that the property should not be rezoned; that the owners were already grandfathered in, so she didn't see the purpose in rezoning; that if it is rezoned then other business like it will come in; that it has been residential for a hundred years and she would like to see it stay that way; that she is against it because of the environmental impacts on the community; and that she moved away but had hoped to come back and retire here.

Ralph Foushee, 3922 Moncure-Pittsboro Road, Moncure, NC, stated that he has a shop, office, and state-permitted landfill on the site; that the business site has been in place for 15-20 years; that the truck traffic depends on the amount of building going on; that he has only 30 feet of frontage on Mt. View Church Road; and that it does not have a driveway.

Ms. Kinte stated that she owns another piece of property on Pittsboro-Moncure Road; that the property in question (Cabinet Creations) is directly across the road from her; that she has the same concerns with this property and she questioned why it needed to be rezoned at this time.

Public Hearing request to rezone all or a portion of the business properties in an area bounded by the Chatham County/Alamance County line, Town of Pittsboro extraterritorial planning jurisdiction, Old Graham Road, Mt. Olive Church Road, and 1500 feet west of NC #87 North

Jason Sullivan, Assistant Planning Director, explained the specifics of the request.

Ronnie Vaughn, 482 Old Graham Road, Pittsboro, NC, stated that he and his wife own property at the corner of NC #87 North and Castle Rock Farm Road; that they request it be light industrial to continue the existing business; that they own the two adjoining properties to the north as well; that it will allow them to repair septic and or add an additional well; that they have had the Environmental Health Department to check for perk-ability; and that it simplifies the tract and squares it off.

Derek Grimes, 1724 Lutterloh Road, Pittsboro, NC, stated that there is a construction area and an ultra-light airfield adjacent to his property; that he does a landscaping business that is currently low-profile but that he may want to expand in the future; and that they had inadequate notification of the process.

Chairman Lucier stated that this property was not part of the public hearing; that if the Board considered it, another public hearing would have to be called on it because the information was received too late to be included in this public hearing process and it would have to be considered as a separate issue.

Charles Grimes, 34 Valley Meadow Drive, Chapel Hill, NC, stated that he was concerned that his son purchased the piece of property with the intent to keep one business on the property i.e. landscaping, and eventually build a home on the back portion; that they sure that this would not be a problem; that they want to continue with their intended use; that no one notified them regarding the zoning change; and that they don't want to be just flushed down the drain.

Public Hearing request to rezone all or a portion of the business properties within 1500 feet of NC #87 South/US #15-501 South from the Town of Pittsboro extraterritorial planning jurisdiction to the Chatham County/Lee County Line

Jason Sullivan, Assistant Planning Director, explained the specifics of the request.

Tony Aulisa, 4191 Highway #87 South, Moncure, NC, stated that he is the plant manager at 3M; that he would like to reaffirm their support for the heavy industrial rezoning proposal; that this zoning is vital to 3M; and that it will allow for improvements and expansions.

Jim Zieglmeier, 4191 Highway #87 South, Moncure, NC, stated that he supports the rezoning request.

Anthony Bright, Walter Bright Road, Sanford, NC, stated that he has land with a cell phone tower on it; that their intention was to zone the entire tract light industrial; that he would like all of the 42.5 acre tract zoned light industrial; that when they lost twelve acres in the 1970s, when the new road took the land; that they weren't given much for it because the State told them they would be gaining commercial road-front property; that the land has been set out in pine trees; that the surrounding land is all family land; and that they do not have major plans for the land, but feel that they should have the right to do something with it if they so choose without having to return to the Board for permission.

Public Hearing request to rezone all or a portion of the business properties within 1500 feet of US #421 South from the Town of Siler City extraterritorial planning jurisdiction to the Chatham County/Lee County Line

Jason Sullivan, Assistant Planning Director, explained the specifics of the request.

Alton Keel, 2891 South River Road, Stanardsville, VA, stated that he wanted the property zoned heavy industrial, as it has been for the last few decades; that because the limestone company went out of business, the sense of urgency to rezone this property increases; that he has had some interest in the property, and has told them the zoning was pending.

Eugene Beavers, 1884 Sandy Branch Church Road, Bear Creek, NC, stated that he owns farmland on Highway #421 South; and that he had questions about whether this proposal affected him at all.

Public Hearing request to rezone all or a portion of the business properties within 1500 feet of US #421 North from the Town of Siler City extraterritorial planning jurisdiction to the Chatham County/Randolph County Line

Jason Sullivan, Assistant Planning Director, explained the specifics of the request.

Wayne Dunlap, 411 B. Teague Road, (PO Box 159), Staley, NC stated that his family owns a large farm that borders the Rocky River; that on the back corner of the property, Salvage King owns is a low-pressure septic system; that the inventory at Salvage King is packed like sardines; that there are feral cats all over; that the only people he sees there are the deputies; that there is not one square yard that is not covered with dilapidated structures; that some of his salvage has gone onto his family's property; that there were a number of dog and cat carcasses on Cooper Road located right next to the watershed area.

Public Hearing request to rezone all or a portion of the business properties within 1500 feet of US #64 between the Town of Pittsboro extraterritorial planning jurisdiction and the Town of Siler City extraterritorial planning jurisdiction

Jason Sullivan, Assistant Planning Director, explained the specifics of the request.

William L. Cockman, 1034 Stage Coach Road, Siler City, NC, representing Myrtle Johnson, stated that there are 22 acres in the parcel; that it is currently zoned heavy industrial; that Jenkins Gas is currently located on two acres of the property; that there is an additional three acres that is buildable; that they are requesting that five acres of the 22 be zoned heavy industrial and the remaining 17 be zoned RA-40.

Matthew Jasper, 1054 Old Sanford Road, Moncure, NC, stated that he was in support of the B-1 business zoning proposal.

John Payne, Paynes Road, Pittsboro, NC, stated that he would like all of the property zoned commercial; and that he supports the recommendation.

The Chairman closed the public hearings.

ADJOURNMENT

Commissioner Kost moved, seconded by Commissioner Vanderbeck, to adjourn the meeting. The motion carried five (5) to zero (0), and the meeting adjourned at 8:17 PM.

George Lucier, Chairman

ATTEST:

Sandra B. Sublett, CMC, Clerk to the Board
Chatham County Board of Commissioners