

**TOWN OF PITTSBORO
PLANNING BOARD
MINUTES
RESCHEDULED MEETING
THURSDAY MARCH 6, 2008**

Chairman Hoyle called the meeting to order at 7:00 pm.

ATTENDANCE: Chairman Ken Hoyle, Ethel Farrell, Jimmy Collins, Harold Howard, Shannon Plummer, Freda Marsh.

APPROVAL OF THE MINUTES: Ms. Farrell made a motion to approve the minutes of the Regular Meeting of **January 7, 2008**. Ms. Marsh seconded the motion; it passed unanimously.

Ms. Farrell made a motion to approve the minutes of the Regular Meeting of **February 4, 2008**. Ms. Marsh seconded the motion; it passed unanimously.

Mr. Hoyle indicated the Mr. Patrick Bradshaw wished to address the Board regarding the Pittsboro Commons Conditional Use Rezoning. Joe Dye from American Asset Corporation said they had received a Resolution from Paul Messick earlier this week on Tuesday afternoon and they feel like they need to go through that thoroughly to assure that it represents the current status and circumstances of their project so it can come before the Board as a fully vetted document. He respectfully requested to be allowed to come back to the Board in the April meeting so they can have an opportunity to do that. He said Mr. Bradshaw had a conversation with Mr. Messick earlier today about the document.

Mr. Bradshaw said he did speak with Mr. Messick early this afternoon and he acknowledged that he had sent the document they received on a Tuesday as sort of a template but he had not tailored it specifically to this project. He said he thinks they do need some more time and under the ordinance the applicant is entitled to a "reasonable amount of time" to respond to the proposed conditions on the project. He said they wanted the Board to be aware that this wasn't something that AAC was seeking and is not the result of them being dilatory and not doing what they are supposed to do, it is strictly a matter that they need more time to work with Mr. Messick and Mr. Monroe on these conditions.

Mr. Hoyle sought to clarify that they are not withdrawing, just asking for an extension. Mr. Bradshaw said they were asking for consideration at the April meeting. Mr. Hoyle said he saw nothing wrong with that and the Board concurred.

Mr. Hoyle went back to the rest of the agenda and called the Habitat for Humanity project **Chatham Oak PUD**. Monroe said the Board has his memo in their packets. He indicated that this is an application for a planned unit development and it has some extenuating circumstances. He said the four lots shown fronting on East Cornwallis were created using a minor subdivision and two houses on those lots are under construction now. This application seeks to allow the balance of the property to be developed as a planned unit development. The planned unit development is proposed in order to vary lot sizes to preserve a wetland area in the southeast part of the property. Monroe said that since this is a planned unit development it requires review under the standards of a Special Use Permit process. For purposes of the review the Board will use all the documents cited in the memorandum for the formal record and use those as the basis on which to reach findings of fact. He said there are a couple of items that are really crucial to the review. The first item is that this application was tendered at a time when the moratorium document that the town had adopted did not include planned unit developments. The application was filed before the call for a public hearing for the revised moratorium; therefore it is a legal document which the Board can review. He said the fact that they could file the application doesn't make sewer capacity magically appear. The issue of sewer capacity is one that will have to be resolved. During the hearing Mr. Bradshaw had indicated that it is their desire to get the Board's approval to approach a developer who had already been vested with capacity to transfer some of that to this project. Monroe said that this was done for the North Anthony Subdivision. He said that the last time this concept was suggested was when DHIS proposed a project on Masonic Street and several Commissioners objected to the idea of a private developer providing sewer capacity to another private developer. They felt that sewer capacity is a public commodity and it ought to be a decision of the Board who gets that capacity and how. That is an issue precisely because the zoning ordinance requires that planned unit developments have municipal water and sewer. That issue will have to be resolved in order for the Board to make a finding of facts favorable for this application.

Mr. Plummer asked if the Board should review the application before that is resolved. Monroe said that is a decision the Board will have to make. Ms. Farrell asked if it was possible to have the wastewater allocation reverted back to the town and the town allocating it to this project. Monroe said that was one avenue that could be pursued. Mr. Hoyle said he thought it would be extremely difficult for them to agree to terms since it has already been allocated to them. Ms. Farrell said that if they were willing to turn it loose to another developer they should be willing to turn it over to the town to accomplish the same thing. Mr. Hoyle said that would be the correct avenue to do it, if it is released back to the town it could be assigned to this project. He said the Commissioners raised questions about the prospect of two private developers exchanging the capacity. Mr. Howard said

asked who is to say it would go to this project. Ms. Marsh said someone could come in before this group and get it. Mr. Plummer said it could go to someone who was in line before this applicant.

Mr. Hoyle said he agreed with Mr. Plummer in questioning why the Board should review the project with this issue hanging over it. He asked the Board if they thought it would be appropriate to table this and give them thirty days to get it worked out then we could go ahead and review it from there.

Mr. Bradshaw said that he thinks an answer to the question "why consider it now" before this other issue is worked out is precisely the reason that Mr.

Monroe pointed out that the Town Board has taken umbrage in the past when a deal has been worked out between developers. He said the other developer has a contract with the town and there are a number of ways that could be done. It could be done in the way Ms. Farrell suggested, an amendment to the contract between the developer and the town and it could be a condition of that amendment that the capacity would be allocated to Habitat for its use in this project. Or it can be done by the town authorizing the other developer and Habitat to make this arrangement similar to what they did with the other development. He said there are logistical ways to do that but they just don't want to step on the town's toe procedurally and handle it in a way that the Commissioners would find inappropriate. He said they were looking for permission from the town to go down that road to work that deal out.

Mr. Hoyle said it leaves this Board in a position because we don't want to recommend approval for something they are going to shoot down. Mr.

Bradshaw said he felt it could be dealt with by conditions if you were so inclined to approve this application. The project is not subject to the moratorium so there is no legal obstacle in approving it as it has been presented to you. He said there are already five lots on the property that are eligible for service and they believe they can get commitments for five additional units from a developer that has capacity that is not currently being used and that would leave five additional lots that would have to be served. He said there were a couple different ways the town could deal with that. Under the moratorium that is in place, it only affects major subdivisions, those being six or more lots. Keeping in mind that this is not subject to the moratorium, under that reasoning, Habitat only has five additional lots that need wastewater. You could consider that in the same manner as you would for a minor subdivision for just five additional lots. As an alternative if you weren't comfortable with that you could put a condition on this approval that those last five lots could not be developed and occupied until the town has additional sewer capacity available. He said they would be amenable to a condition like that.

Mr. Plummer said he is a little bit confused and asked if there were still going to be five lots without capacity even if this deal is worked out. Mr. Bradshaw said he believes that is correct. Mr. Plummer asked if that meant that there were three steps to this. Mr. Bradshaw said the first step is already accomplished; there are

already five lots on the property. He said they believe that they can get 1800 additional gallons of capacity from another developer that already has it allocated for an additional five lots. That would leave 1800 gallons still needed to start five additional lots. Ms. Marsh asked if there were fifteen lots all together. Mr. Bradshaw said that was right. He said with those last five lots there are two alternatives: the Board could think of them as a minor subdivision and you can allow minor subdivisions under the moratorium; or you could condition this (which is one of the benefits of the Special Use Permit) so that those last five lots could not be developed until capacity was available

Monroe said he felt the last five lots could not be regarded as a minor subdivision because the distinction between a minor and a major is that a minor has to front on an existing street and have utilities available. When you build a street you automatically throw that development into a major subdivision. If it is only two lots, the fact that you are building a street causes the development to be regarded as a major subdivision according to the regulations. Mr. Bradshaw said he agreed with that he only tried to suggest it is a way of thinking about it. He said he wasn't suggesting that it could technically be a minor subdivision. He said with the moratorium in place you already have the ability to allocate up to 1800 gallons of wastewater capacity to minor subdivisions so he was suggesting the Board could think of this in the same way because it is the same amount that would be required for a five lot minor subdivision.

Mr. Collins said this feels like it is becoming a habit forming thing where you could have a series of minor subdivisions. He said he is becoming a little skeptical of it. He said that although it is only 1800 gallons if we keep repeating it over and over we could screw up the whole works before we know it. Mr. Bradshaw said there is already nothing that prohibits that because the moratorium doesn't apply to minor subdivisions.

Ms. Farrell said the Board needs to look at the five conditions and see if we feel whether or not this project meets these five conditions. She said that under the recommendations that the Board could approve this with the condition that the wastewater situation be resolved with the Commissioners. Monroe said the Board could do that.

Mr. Bradshaw said the Monroe had pointed out in his memo that the application did not include a development schedule as required and he handed out such a schedule. He said it shows a pretty quick turn-around assuming that wastewater can be worked out they anticipate that the entire project can be completed in twenty four months. Mr. Hoyle said that the only thing that has been left out is when it is anticipated the project will begin. Mr. Bradshaw said the schedule is actually timed by months from the approval.

Monroe said he received an e-mail from Mr. Bradshaw today indicating that, as has been discussed before, Habitat will be willing to have those properties that are in the ETJ annexed to the town. He pointed out the ETJ line reflected on the plat and referred to the lots which are in the town and those in the ETJ. He noted

this is a remnant of the original boundary of the town when it was shaped like a kite.

Mr. Hoyle asked the Board if they wanted to go ahead and go through the review and come up with a recommendation with certain conditions to it, the first of which would deal with the sewer situation; or they could postpone to the next meeting and see what the applicant can get done. Mr. Hoyle said he thinks the plan is a good idea, that there is definite need and he complimented the applicant's team for the good job they did at the public hearing. Mr. Plummer said he appreciated the work that Habitat does; it is something that is desperately needed. He said there is not much affordable housing and he noted that the price range they are proposing is the same as the neighborhood he lives in. He said they have some teachers moving in to his neighborhood. He said his concern is that if the Board does something here it will appear they are making a special concession for Habitat for Humanity but two months from now we may have a private developer who wants to build houses and maybe he works out a deal to buy sewer from someone else who we shouldn't have given it to and we say no to them. He asked how that would appear. Mr. Plummer asked the Board if they would be as willing to work with a private developer if it wasn't non-profit.

Monroe said that one of the things that is a part of this application is that Habitat is going to develop seven or eight of the lots and the balance of the lots will be offered to private builders who would build affordable housing within the terms that Habitat would stipulate. Ms. Powell stated that Habitat will build seven and private builders will build the remaining eight. Mr. Plummer asked what the ratio would be if they are only able to build ten initially. Ms. Powell said they would try to make it the same proportion.

Mr. Hoyle said he would personally feel more comfortable postponing until the next meeting to see what they can work out and then we can take action. Mr. Hoyle asked if that would hurt anything. Mr. Bradshaw said he didn't think it would hurt anything but he said it would be helpful to them and perhaps foster good relationships with the Town Board if the Planning Board would consider language in its motion to postpone to instruct them to try to resolve these issues with the other developer prior to the next Planning Board meeting.

Ms. Farrell asked if the wastewater capacity was the only issue the Board needs to be concerned with or if there were other issues regarding the Special Use Permit itself. Mr. Hoyle replied that there are approximately seven issues identified in Monroe's memo. Mr. Plummer said he thought those could be resolved. Mr. Hoyle agreed. Mr. Hoyle said there was only one issue that he is concerned about and that is the request from the Potterstone Homeowners Association asked that the town incorporate a condition to require that the occupants be required to maintain and keep up their property. He said he felt that was ridiculous and the town can't impose something like that. Mr. Plummer said he didn't think this Board would.

Mr. Hoyle asked for a clarification of the location of the sidewalks. Monroe pointed them out on the plat. **Ms. Farrell made a motion that the Board table this item until next month and tell the applicant to have the issue of the wastewater capacity resolved and have some agreement from the two parties as well as the Commissioners supporting their effort and also addressing the issues in Monroe's memo. Ms. Marsh seconded the motion; it passed unanimously.**

Mr. Hoyle introduced the McDonald's commercial site plan. He referred to the sheet portraying the elevation of the proposed building. He said Monroe has identified nineteen different concerns that he has so he called on Monroe to go through them.

Monroe said he received a response this morning in overnight mail and it included a revised site plan. He said the essential revision on the site plan goes to the issue raised over parking spaces. The original plan that was submitted had a row of parking spaces just as you entered the site and it was his concern that people driving in and those backing out of those spaces posed conflicting traffic movements. He said he had asked that those spaces be eliminated and the revised plan has done so. Mr. Hoyle said the plan they got shows parking spaces in that location. Monroe said the revised plan that he just received has eliminated them. Monroe said he had originally expressed concern with two spaces perpendicular to Hwy 15-501 but after discussing it with the site designer he said he felt comfortable with them.

Monroe said that all other issues that he had raised have been affirmatively answered in the response. The one thing that remains that bothers him on the plan is the area shown with the striped pavement. He said it is an area where someone who goes through the drive-thru and finds their order isn't ready when they go to the pick-up window; they proceed to this point and wait for their order to be carried out by an employee. He said that having a car sitting in the path of a vehicle exiting the drive-thru window is not a good idea. He said there are plenty of parking spaces a person could use while waiting and one of them could be designated for "Pick Up". It would seem to be a much better solution than having a car stopped at the corner of a building where someone leaving the drive-thru is going to have to pull around them; and with the possibility of cars backing out of parking spaces it is just too busy.

Mr. Plummer said he thought it was more dangerous to send an employee across a busy parking lot. Mr. Hoyle asked if they could make the two spots that are perpendicular reserved for pick up delays. Monroe said that is a perfectly good solution. Mr. Plummer said this concept shown works; he said he has seen it and it works. He said you need to get it out there quickly to the customer and send them down the road and there is plenty of room for a car to pull around. Mr. Hizer said those are a standard throughout the company. He said they put the car on there to scale to show how much room there is. He said if a customer places a complicated order it is going to take a little longer to get it together and

the guy behind him who just orders a burger and fries doesn't want to sit waiting for somebody else's order to be pulled. Mr. Plummer said it happens at his diner too and he tells the customer to pull to the back door and wait.

Mr. Hoyle asked Monroe if they had addressed each one of the nineteen concerns from the memo. Monroe said that was correct. Mr. Hoyle asked the Board members if they had any concerns. Mr. Howard said if Monroe is happy, he is happy.

Mr. Hoyle asked if what is in front of this building is it going to be in keeping with what is at CVS and the KFC. Mr. Spoon said they were all going to be consistent and he gave the Chair his word on that. Monroe said, for the Board's information, that he sent a photocopy of the landscape plans for both those uses to the site planner for McDonald's and Mr. Hizer informed him they are incorporating them.

Mr. Hoyle asked how much space there is between the parking lot and the road, the area you have for vegetation. Mr. Hizer said there are eight feet between the curb and the property line. He said if you measure from the edge of the asphalt to the curb it is about 25 feet.

Mr. Hoyle asked where they proposed to put the McDonald's sign. Mr. Hizer pointed to a location at the southwest corner of the property. He asked if this would be the traditional "Golden Arches" signage. Mr. Hizer said it would. Mr. Hoyle indicated that it must satisfy Pittsboro signage requirements.

Mr. Collins asked if the dumpster site had been contemplated. Mr. Hizer said it had and pointed it out on the plan. Mr. Hoyle asked the purpose of the second area at the dumpster site. Mr. Hizer said that it is an extra dry storage area for things like cups. He went on to say that the exterior of the dumpster enclosure/dry storage area are done in the same brick as the building. He said they will have battle gates on them that are painted to match the rest of the building; so this structure will look just like the building. Mr. Hoyle asked if it was completely accessible for the big trucks. Mr. Hizer said it was.

Mr. Plummer asked how much the parking had been reduced. Monroe said it had been reduced by five spaces.

Mr. Hoyle asked Monroe to explain the reference in the application regarding impervious surface. Monroe replied that a portion of this property was originally a part of Bellemont Station so it was bound by the impervious surface limitations of that development. Bellemont Station was allowing the outparcels a greater percentage of lot coverage because of the size of the detention pond. That portion can exceed 70% but the portion of the site that came from Mr. Cooper's property is limited to 70%. The end result is that the overall site is going to be greater than 70% but within the limits of Bellemont Station.

Mr. Hoyle asked if he was correct in thinking there would be two entrances to the building. Mr. Hizer said that was sort of correct; there will be two entrances on the south side of the building and one at the pick-up waiting area.

Mr. Hoyle said he had one more concern. He related that a few weeks ago he was in the northeastern part of the country and they had just unveiled a beautiful McDonald's restaurant, one like he had never seen before. He said it did not look like commercial space, it did not have the traditional colors and it did not have the arches. It was a beautifully designed building; it was not obtrusive but people found their way to it. He said they have their arch on the front side of the building; there is a free standing sign at the southwest corner of the property. He asked what it would hurt to eliminate that sweeping arch across the front and on the north side. Mr. Ray Kandemus of the corporate asked for a clarification of which element Mr. Hoyle was referring to. Mr. Hoyle pointed it out on the elevation. Mr. Kandemus said this building design is their new template; he suggested members may have seen it at the Siler City location. He said this is the kind of image McDonald's wants to put forward wherever possible, whenever allowed. He said there are certain municipalities where there are restrictions in place or codes that do not permit it because of historic locations or something. But in sectors where they are allowed they prefer to have it because of the branding. He said it has become an integral part of their design and they would like to keep it.

Mr. Hoyle said his concern, and he has expressed it on a number of occasions, and that is that this is a main entrance to our town and we want to maintain as much integrity as we possibly can. He said he has a business and he has a logo but it just an etching of his house. He asked if they could do the building without this yellow slash he would be totally satisfied because the building looks good but it is an integral part of the adjacent development and does not blend in with that. Mr. Spoon said he had had this conversation with Mr. Hoyle so he checked on the color and took this plan to Kinko's to get a copy and then went to the Siler City location. He said the Siler restaurant has the play space out front and showed where the yellow element on that building would be and he said that it has a lot more yellow than this building has. Mr. Spoon said he did not think this building would be obtrusive with the amount of yellow and he said he really thinks it goes to the trademark. He said trademark is important to companies and McDonald's is the most recognized trademark; he asked the Board to consider letting them have that since they have done a good job trying to improve the look of the building as it relates to the others out there.

Mr. Collins asked if the Siler location had red and yellow or was it just yellow. Mr. Spoon said it was lots of yellow because the truss beams in the play space span at least 30 feet and they are all yellow. He said there is no comparison with this space.

Mr. Howard said he was at the Siler location last night and he knew it was a McDonald's and he knows this is a McDonald's and it doesn't bother him.

Mr. Plummer said he would like to reiterate that he thinks it is important that they have the pick-up delay area conveniently located for the customer and safely located for the employee. Mr. Hoyle asked if it would be possible to locate

this area on the other side of the building. Mr. Plummer said he didn't see the purpose. Mr. Hoyle said he thought it would open up the space at the end of the drive-thru and thought Monroe had a very good point. Mr. Plummer said he had just seen it in this kind of location and he even goes through the one in Siler occasionally when he has his kids and it simply works, everybody knows you go around if you see a car there, and it doesn't happen that often. He said, as Mr. Spoon indicated they are the best known brand, and they are probably the most efficient fast food restaurant in the world. They know what they are doing and their system works.

Mr. Hoyle asked when they would begin the restaurant. Mr. Kandemus said they hoped to be under construction no later than the middle of May and earlier if possible. He said their average construction last year was 100 days.

Ms. Farrell made a motion that the Board recommend approval of the plan with the responses included. Mr. Collins seconded the motion. Mr. Plummer asked about the location of the pick-up delay area. Ms. Farrell said her motion should indicate it as it is shown. **The vote to approve was unanimous.**

Mr. Hoyle referred to the Commissioner's Actions and asked for Board member concerns. Mr. Plummer said he had a concern about the number of signs that showed up on the streets on weekends. He asked if something couldn't be done to get them up just because Monroe doesn't work on the weekends. Monroe said that the problem will be resolved once the town is able to hire an assistant but in the meantime he would ask the Chief if patrol officers might be able to pick some up while doing their rounds.

There being no further concerns, **Ms. Farrell made a motion to adjourn. Ms. Marsh seconded the motion; the meeting adjourned at 7:52.**

