

MINUTES
TOWN OF PITTSBORO
BOARD OF COMMISSIONERS
MONDAY, SEPTEMBER 10, 2007
7:00 P.M.

Mayor Randolph Voller called the meeting to order and requested a moment of silence.

ATTENDANCE

Members present: Mayor Randolph Voller, Commissioners Max G. Cotten, Pamela Baldwin, Clinton E. Bryan, III and Gene T. Brooks. Commissioner Chris Walker was absent.

Other staff present: Interim Manager Paul S. Messick, Jr., Alice F. Lloyd, Clerk, Chief of Police David Collins and Planner David Monroe.

AGENDA APPROVAL

Motion made by Commissioner Cotten seconded by Commissioner Baldwin to approve the agenda as presented.

Vote Aye-4-0 Nay-0

CONSENT AGENDA

Motion made by Commissioner Baldwin seconded by Commissioner Cotten to approve the consent agenda as presented.

Vote Aye-4 Nay-0

CITIZENS MATTER

Maureen Temple Richmond, 25 Creekside Circle, said that since moving to Pittsboro in May, 2007 she had educated herself about her new surroundings. She stated that Planner David Monroe had thoroughly and methodically responded to her many questions in a factual manner that had brought clarity to otherwise puzzling matters. She said this morning she had inquired about the situation regarding Pittsboro's water supply and rights to discharge effluent, and had been assured that by a water flow formula used by the State that the Haw River stood to grant them nearly three times what they ask of it at present. She said according to Mr. Monroe's best estimate, the Town had reached the 90% mark in regard to the amount of treated wastewater that the State would allow them to release into the surrounding watershed.

Ms. Richmond said those estimates included all existing, currently approved, and new construction. She said given that their daily effluent discharge allocation stood at 750,000 gallons per day, the remaining 10% amounted to 75,000 gallons. She said that number represented the entire additional amount of wastewater and sewer burden that could be taken on by the Town from this point forward, unless the State changed their allocation. She then explained why that would likely not happen.

Ms. Richmond said it would be wiser for the Town to focus on observing the present effluent limits. She said it seemed to her that all contemplation of Pittsboro's future ought to be driven by that essential consideration regarding effluent discharge. She said any projects proposed that exceeded that limit should be eliminated immediately from consideration.

Mayor Voller said for the record, their tributary flow according to Hobbs and Upchurch last week was 350,000 gallons currently. Mr. Monroe responded that was correct. Mayor Voller said what Ms. Richmond was referring to was the paper allocation, which had reached the 90%. Mr. Monroe said that was correct.

PUBLIC HEARING

Motion made by Commissioner Cotten seconded by Commissioner Baldwin to go into public hearing.

Vote Aye-4 Nay-0

APPLICATION BY RICKY SPOON TO REZONE 1.104 ACRES OF LAND AT LOWE'S DRIVE FROM R-12 TO C2

Planner Monroe stated that the Planning Board had reviewed this request and recommended that it be approved.

Ricky Spoon, 2475 Redbud Lane, the applicant, asked the Board to rezone the property. He said the areas immediately around this property were already zoned C2, and he had immediate plans to put a store there.

APPLICATION BY RICKY SPOON TO REZONE 3.53 ACRES ON RUSSET RUN FROM RA2 TO O&I

Planner Monroe stated that the Planning Board had examined this request and recommended that it be approved, noting that the applicant was committed to the fact that nothing would be built unless it was built within the limits of available wastewater capacity.

Jody Minor, 215 South First Avenue in Siler City, said in a professional capacity he represented the Mediation Network of NC which was a confederation of 21 independent non-profit community mediation centers which provided services to the communities, courts and schools in the State. He said in Mr. Spoon's wisdom in this request, one of their valued centers, Deep River Mediation currently located on Camp Drive, would be allowed to occupy office space on this property as a non-profit. Mr. Minor said last year, Deep River Mediation served 221 district court cases in Chatham and Lee Counties for individuals who lacked representation, as well as 443 additional people served with juvenile and community referrals.

He said an affirmative response from this Board would allow Deep River to relocate and retain an office within their budgetary means, and continue to provide services right here in Pittsboro.

He presented for the record the annual report of Mediation Network of NC for information purposes.

Ricky Spoon asked the Board to rezone the property, noting he planned to use this property as a buffer for the residential portion next to the 187 acres of commercial property he owned. He said the property would be used by Deep River Mediation as well as by the Police Department for training purposes.

Commissioner Baldwin asked if Mr. Spoon had talked with the people at Carolina Living and Learning Center. Mr. Spoon said he had, noting he had talked with Mr. Bober immediately upon closing on the property, had told him of the plans, and Mr. Bober had said he would contact him if he had any questions.

Planner Monroe stated he had spoken with Mr. Bober as well, and had received no negative comments.

Mayor Voller asked was there any discussion on the Planning Board concerning the other request from AAC and how it related to this. Planner Monroe replied that was not discussed.

Mayor Voller asked if they were in favor of a mediation center in that location. Planner Monroe responded that they looked only at the uses possible, and had not focused on just one.

Commissioner Brooks said if they went this route and no Special Use Permit was required, and the mediation center, which he was in favor of, moved for whatever reason, then the building would be used for many other commercial purposes. Planner Monroe said there were limits on what could be done, since that area was intended to be a transition area from commercial to residential.

Commissioner Brooks said he was under the impression that the people living in that area did not want anything of that nature, commercial or otherwise. Mr. Spoon said he had talked with many of the residents and had received no negative comments.

Mayor Voller commented that a mediation center was very different from a 50-acre shopping center, which was likely why people were not protesting.

**REZONING REQUEST FROM CHATHAM PARK INVESTORS FOR
TRACTS OF LAND ON EUBANKS ROAD FROM RA2 TO MUPD
FOR 64 CROSSING AT EUBANKS ROAD**

Planner Monroe said this application was from Chatham Park Investors Group for pieces of property on the east and west sides of Eubanks Road and north of the Bypass. The applicant is requesting a rezoning from RA2 to MUPD - Mixed Use Planned Development. The Planning Board had reviewed the application and it was found to be consistent with requirements of the ordinance and recommended approval of the rezoning.

The resolution is as follows:

PLANNING BOARD RESOLUTION OF APPROVAL
TOWN OF PITTSBORO, NORTH CAROLINA

Applicant: Chatham Park Investors LLC
Location: East and West sides of Eubanks Road
Parcel ID: Tracts A&B Plat Book 2007, pp 26 & 27
Lot Size: 71.51 acres
District: R-A2
Meeting Date: 16July
Request: Rezone from R-A2 to MUPD

WHEREAS, the applicant has submitted a request to rezone the above referenced property to C-2, pursuant to the provisions of N.C.S.S. 160A-385 and ARTICLE X of the Town of Pittsboro Zoning Ordinance; and

WHEREAS, the Planning Board convened to consider and prepare a recommendation on the application on 16July2007 at which time the applicant was given the opportunity to present arguments and the Town Staff was given the opportunity to comment on the application; and,

WHEREAS, the applicant appeared and addressed the Board as more fully set forth on the record; and,

WHEREAS, the Board made the following findings and conclusions:

1. The submittal has satisfied or exceeded the standards of the MUPD Section of the Zoning Ordinance.
2. Rezoning this parcel should not result in diminishing property values of nearby properties.
3. The proposed rezoning should not result in lessening the enjoyment of nearby properties.
4. The submittal has adequately addressed concerns about traffic and environment.

NOW, THEREFORE, BE IT RESOLVED, on the basis of the foregoing findings and conclusions that the Planning Board does hereby recommend to the Board of Commissioners that the request for rezoning be APPROVED. The Board further requests that the Commissioners conduct a public hearing on the request.

Kathleen Hunley, 136 Rocky Falls in southeastern Chatham County, stated that when the public hearing was held on the Pittsboro Place Mall and the County-wide rejection of the plan had been made strongly evident, that such proposals by developers in Chatham County were settled. She said they again must tell developers that Chatham County did not want or really need their grandiose plans. She said she found objection with the development of 64 Crossing, noting her concerns were: the amount of sediment generated by development and traffic that would eventually make its way into the Haw and Rocky Rivers, its tributaries, and onto roads in and around the Pittsboro; Highway 64 was a major east-west expressway, and a mall of this size

would create major problems with traffic; the County was already stressed in regards to both water and waste, and a development of this size would require an almost unsolvable need; the quantity of water such a mall would require could well be more than Jordan Lake could supply, particularly in times of severe drought; and, waste treatment would overwhelm even expanded sources of treatment as well as the source of effluent.

Ms. Hunley said one of the draws of Pittsboro was its mood of small town America, and this image could be destroyed as soon as construction of such a shopping center began. She said such a development would require enlargement of much of Chatham County infrastructure, including police, feeder roads and fire protection. She said property taxes may have to be increased County-wide to support such a mall, which could place an unfair financial burden on a large percentage of residents outside Pittsboro's ETJ, who could not benefit from the enlarged infrastructure but would be required to support it financially.

Ms. Hunley said perhaps most importantly, a number of small businesses had been forced to close over the last ten years as large chain and franchise businesses had come into the County. She said a development such as this could wield a mortal blow to small, locally-owned businesses in Chatham County, because middle and upper management jobs would surely be brought in from other stores leaving only lower jobs for Chatham County residents. She said while the County would receive tax dollars from such mega-businesses, it could bring death to local enterprises.

Ms. Hunley said there were valid arguments that Chatham County needed recreational activities for its young people as well as career opportunities to keep its graduates in their home County. She said if the Town of Pittsboro and the County would encourage and support local potential, they may encourage those graduates to open other needed commercial endeavors. She said let's give our business to Chatham County rather than to developers who would leave after development with no accountability for long-term effects. She urged the Board to vote no on the development of 64 Crossing.

Robert Eby, 19 East Madison and a board member of CCEC, stated that 64 Crossing appeared to be a well-planned mixed-use development, modified in response to input from neighbors and other interested parties. He said if built as envisioned, it would have a notable impact on Pittsboro with pluses and minuses, such as: new business opportunities; competition for existing businesses; attraction of long residents to work and shop in Pittsboro; more traffic congestion on Business 64 and Thompson Street; additional demands for water and sewer plant capacity; and, possible stormwater runoff issues. Mr. Eby said why rush to approve another large development, asking should any rezoning be approved before the Land Use report was received, or when there was no available sewer treatment capacity, or without a firm commitment from the developer to help Pittsboro solve its potable water and sewer treatment capacity problems.

Mr. Eby said one specific problem with 64 Crossing was stormwater runoff. He contended that stormwater runoff carried oil and other deposits from parking lots and roadways into adjoining streams and eventually into Jordan Lake. He said the current plans proposed to contain stormwater for no more than a 1" rainstorm, although it had been said the developer was open to a more stringent guideline. Mr. Eby said the project would have 70% impervious surface; our

weather has become more radical over the last few years, with four, more than 2" plus rainstorms; and, if the rezoning was approved he would ask that a condition be included to require that the development contain stormwater of at least a 2" rainstorm, noting that to do less would endanger the drinking water supplied from Jordan Lake.

Patrick Bradshaw stated he had some proposed revisions to the master plan, and provided those to the Board. He said he was an attorney representing Chatham Land and Timber Management, LLC, owned by Frances and Tom Danek and their children, who owned a tract of land of approximately 21 acres that was immediately to the east that Chatham Park Investors, LLC requested to incorporate into its MUPD. He said that Chatham Land and Timber and the Danek family did not oppose Chatham Park Investors' proposed development, and believed the location was suitable for commercial development. Mr. Bradshaw said that the principals of Chatham Park Investors were persons of considerable reputation and believed they would do an excellent job designing and developing this project.

Mr. Bradshaw said the Danek's only concern was protecting access to their property to the adjacent public rights-of-way. He said the property they owned had been in the family for many decades, and they had lost about 14 acres of this particular tract to the creation of US 64 Bypass. He said the Danek property currently had a boundary along an uncontrolled portion of US 64 Business that would be sufficient to provide access for the future development of their property. However, if Chatham Park Investors proceeded with its development, including the proposed right-in/right-out driveway on its Area B as shown on the proposed Master Plan, it was unlikely that Chatham Land and Timber would be able to obtain a commercial driveway at its boundary with US 64 Business.

Mr. Bradshaw said it was sensible from an economic perspective as well as traffic and safety perspectives for access to these properties to be coordinated, and it was necessary to specify the terms and conditions that would protect access to the Danek's property in order for Chatham Park Investors to make the showings necessary for approval of an MUPD. He said that Sections 5.6.6a.5 and 6 of the Zoning Ordinance required that in order to grant an MUPD zoning, the Town Board must find that the MUPD district designation and the Master Plan resulted in land use patterns that promoted and expanded opportunities for public transportation and an efficient, compact network of streets, and that the development proposed in the Master Plan was compatible with the character of surrounding land uses and maintained the value of surrounding properties. Mr. Bradshaw stated that Section 5.6.6e.1 of the Zoning Ordinance required that the on-site transportation circulation system in an MUPD be integrated with the off-site transportation circulation system of the Town. He said that Section 5.6.6e.4a required that the roadway widths be clearly delineated in the Master Plan. He said unless adequate provision was made to the Danek's property, the MUPD rezoning and the Master Plan proposed by Chatham Park Investors could not be approved because they did not satisfy the requirements of the Zoning Ordinance. He said without providing adequate access to the Danek's property, the MUPD plan would not promote an efficient, compact network of streets, it would not be compatible with the character of surrounding land uses, it would not maintain the value of surrounding properties, and it would not be integrated with the off-site transportation circulation system of the Town.

Mr. Bradshaw said in a revision to its original proposal, Chatham Park Investors had inserted language into the Master Plan that said it would provide a pedestrian and vehicular access easement to the Danek property with the location of the easement to be determined by the property owners at some future time. He said although that insertion addressed in spirit the necessity to provide adequate access to the Danek's property; it was too vague and ambiguous to satisfy the requirements of the Zoning Ordinance. He said to correct that deficiency, Chatham Land and Timber was proposing specific revisions to the MUPD narrative suggested by Chatham Park Investors detailed in the document he had just provided to the Board.

Mr. Bradshaw said, in summary, the Danek's were requesting an easement over the roads within the Area B on the Master Plan and an easement that was at least 60' wide that connected to their property in the area between the two stormwater ponds shown on the site plan near the common boundary; that the right-in/right-out driveway on US 64 Business be converted to a public right-of-way centered on the boundary between the Chatham Park Investors and the Chatham Land and Timber properties that was 100' wide and extended 500' north from the US 64 Business right-of-way; and, that the Chatham Land and Timber receive at least 10 days written notice prior to any consideration or action by the Town on future plans and designs for roadway improvements and deviations from the Town's road width standards.

Mr. Bradshaw said he had spoken to representatives of Chatham Park Investors who had verbally stated that they were willing to cooperate with his clients to provide access. Less than two weeks ago, his clients had received a letter from the Town dated August 27 announcing this hearing, and after that notice his clients saw for the first time the proposed language in the Master Plan to protect access to their property. He said based upon a review of the requirements of the Zoning Ordinance for approving an MUPD and consultations with private engineers and a DOT engineer, his clients believed that the modifications they had proposed were necessary to preserve access to their property and to satisfy the requirements of the Zoning Ordinance. He said the Danek's already had adequate access, but that access would be effectively lost and their property severely devalued unless specific provision was made in Master Plan to preserve access to the Danek's property.

Catherine Deininger, 124 Goldberry Lane, stated she was representing the Haw River Assembly. She said Pittsboro was the only local government along the Haw to take water directly out of the river. She said a letter contained in the record of the development from Tim Baldwin, Director of Total Water Management of McKim and Creed to Philip Culpepper stated that "at present there are insufficient public facilities to convey potable water to the site, and to convey waste from the site for appropriate treatment and dispersal. However, several initiatives were underway which will rectify that situation. The Town is pursuing expansion of allowable water withdrawal from the current 2 MGD to a total of 7 MGD. The Town is pursuing increase in the wastewater discharge capacity to the Haw River from the existing 2 MGD to a total of 4 MGD." Further in the same letter, she said, a projected daily demand for water and sewer for 64 Crossings was 94,600 gallons per day.

Ms. Deininger said even though the Haw River had a large watershed, it was in general a very shallow river. She said during drought conditions as they were currently experiencing, the majority of the low flow water in the Haw had been discharged from six major wastewater

treatment plants upstream of the Bynum Dam where Pittsboro had its intake. She said the Haw River Assembly was concerned about Pittsboro using the Haw for drinking water due to these conditions. She said they were very concerned about the potential passing of proposed developments that were dependent on Pittsboro more than tripling the amount of water they were already removing from the Haw. Ms. Deininger said they feared that Pittsboro was promising drinking water from a source that was insufficient to provide good drinking water and maintain a healthy aquatic ecosystem during the severe droughts.

Ms. Deininger pointed out that the part of Roberson Creek that this site drained to had been identified by the State as impaired for biological integrity, which meant that the aquatic insects and fish that would be expected to be found in a perennial stream were not present. Also, she said, the Division of Water Quality created a total maximum daily load for total phosphorus for Roberson Creek requiring a 71% reduction in point and non-point source pollution. In regard to protecting the Roberson Creek watershed, she asked the Board to note the following: it was unclear from the site plan map and the narrative how the 100-foot buffer along the stream would be determined, and asked that the 100-foot buffer be measured 100 feet from the top of the bank of the creek; that the slope of the land next to the creek needed to be taken into account by measuring 100 feet horizontally rather than 100 feet up the slope; the retention ponds in the site plan appeared to encroach on the floodplain and on the undisturbed creek buffers; the proposal included a trail within the creek buffer, and written language should be included that stated that the trail not be paved; and, an environmental assessment should be conducted on the property before any development plans were approved.

Mayor Voller asked looking at the river today, how does it compares to the lowest flow recorded. Ms. Deininger replied she did not know. Mayor Voller asked were they close to the worst or was the worst yet to come. Ms. Deininger responded she did not know. Mayor Voller asked that she find the answer and forward that the Board. Ms. Deininger agreed to do so.

Jim Hinkley, 126 Evergreen Drive, stated his main point was that Pittsboro should not be approving any major retail, residential, or mixed use development until the land use planning process had been completed, adding to do otherwise was fiscally irresponsible. He said the Town had invested \$50,000 in completing a Land Use Plan to be used as a guide for the future, and it would be irresponsible to continue approving developments not planned for. He said it was time for the Pittsboro Planning Board and the Pittsboro Town Board to get out of its reactionary mode and into a planning mode, for the residents. He said otherwise, it was a waste of that \$50,000 of tax dollars.

Mr. Hinkley said they should be promoting developments in and near the downtown first, and infilling where development already existed such as near Powell Place, Belmont Station, and Chatham Mills. He said once they had a Land Use Plan with concrete proposals for how the Town would develop out from its center and once they had started filling in their existing business locations, then they would have a better idea if outlying business centers beyond the Town limits may be needed.

Mr. Hinkley said they were not there yet, and approving such developments would only make it more difficult to revitalize the core of their Town. He said infilling was the sensible and fiscally

practical way to go about that, and they should be working directly with developers to first fill up retail spaces with quality businesses, locally owned, and working with the EDC to help locally owned businesses locate in such spaces. He said developments like that proposed weakened the viability of the Town center, and would disrupt the Town's interior growth and stifle infilling. He asked that the Town Board not approve the rezoning request.

Gary Simpson stated that he wanted to respond to an earlier question. He said it had become clear to him and his neighbors many years ago that pursuing anything beyond what they had at some initial public hearings was a lost cause, and due to that there was not a great deal of effort put into it this time. He said they had tried to work with Mr. Spoon in the past to make things as good a transition as possible into that area, believing that was the best resolution they could have at that time.

He said the broader issue was the kind of details on rezoning issues they were dealing with tonight and what plans would be like for a new major complex on the edge of Town. He suggested the bigger point was that there was a \$50,000 land study going on which indicated that those involved wanted to grow the Town from the inside out. He said in doing things the way they were tonight it seemed that the \$50,000 was not that important. Another point, he said, was that Pittsboro had no plan to resolve wastewater or raw water problems, and a development like this would add to that problem.

Mr. Simpson said he had listened to a report from Hobbs and Upchurch defining where they were, and it made people like him ask how this Board could sit here tonight and consider the details of any plan like this. He said another point was that the land in and around Pittsboro drained into watersheds, which were already compromised by massive development impacts. He said Jordan Lake was truly impaired, and sooner rather than later there would be mandatory restrictions placed upon them, yet they keep behaving as if that would not happen. He said they could not keep deforesting Chatham County or paving it over, or running up a huge environmental tab without running into problems.

He said another point was that considering another major development at this untimely point at this location adversely impacted not only the environmental infrastructure but also led to negative transportation impacts that adversely affected health and other quality of life issues. He said his final point was that Pittsboro was a gem, and their Town center was a diamond in the rough. He said it seemed that they were not polishing that diamond, and it had true potential if they would just pay attention to it and less attention to what was happening on the edge of Town.

Phillip Culpepper, a Consulting Planner with the Preston Development Company, stated that he had in the past met with the Planning Board and this Board to move forward with a general use rezoning. He said after those meetings, they had met with their neighbors which resulted in the booklet before them for the mixed use development called 64 Crossing at Eubanks. He said many negative comments had been offered, but he was proud of what was in front of them. He said they had listened to the Board and to the people of the community, and had tried to incorporate every reasonable condition and upgrade to allow this project to set the standard for Pittsboro. He said they met and exceeded every standard, using stormwater as an example, as well as the stream buffer.

Mr. Culpepper said the site plan was an illustration of how they might use the property. He described the 71.4 acres, noting they were including public transportation facilities and access to the adjacent property. He said regarding wastewater, they intended to fix it, noting that development should pay its own way. Mr. Culpepper stated they would never ask the Town to pay to serve them or to aid them.

He described some of the details of the design, including what Eubanks Road would look like, how they would protect and soften any impact on adjacent neighbors, how traffic impacts would be addressed, that they would provide any necessary improvements to support the project, that they would comply with standards for lighting, that they would actively work to address sewer and water capacity issues, and that recreation space and greenways would be provided.

Mr. Culpepper stated that this was a mixed use development but there was no residential, so there was no impact on schools. He said regarding concerns about the existing Land Use Plan, this area was noted as a commercial node on the draft, and asked the Board to allow them to move forward with this rezoning. He said they wanted to present the Town with the highest quality project they could possibly present, ask for their approval, and then work as hard as possible to get the sewer and water capacity issues resolved. Mr. Culpepper said in his opinion this was not a project that would adversely affect the downtown, and in his mind it was the right project at the right time in the right location.

Mayor Voller asked what about the question brought up by Mr. Eby regarding a 2" rainfall. Mr. Culpepper said this was a zoning document, and they had not yet gotten to the site plan and necessary engineering. He said new standards were coming forward, and they would certainly match them.

Sal Musher, Senior Planner and Landscape Designer with Kimley Horn & Associates, stated they were a team of environmental and civil engineers working on this project. He said at this point they were committing to meet and/or exceed all requirements, and had also stepped up to commit to the Phase 2 NPDES requirements, which addressed the minimum threshold of a 1", 24-hour storm which was the most difficult type of storm to attenuate in terms of stormwater detention. He said they were addressing stormwater detention and quality at this project, and at a minimum they would meet current State and local standards as well as the Phase 2 standards not yet in place.

Mayor Voller stated he had received several emails asking questions, such as, if this was a blue line stream coming from the adjacent property. He said another question was how the site would be developed based on the topography and how it would fit between the two roads. When you got further west toward the Town, he said you had a confluence of a number of blue lines coming in as you went further down Old Business 64. Mayor Voller asked how they proposed all that would work and not have any impacts downstream in terms of grading and stormwater.

Mr. Musher responded that the topography fell generally toward the creek, and there was a floodplain area. He said a 50 foot buffer was required, but they would provide a 100 foot buffer that in many cases would fall within the floodplain. He said the limits of the floodplain area was

actually extending beyond the 100 foot buffer, so in reality there would likely be a wider buffer in many areas of the site. Mr. Musher said they did not expect to be doing a lot of grading in that area, but in cases where they did they would be balancing cut and fills and making sure they were not diminishing the capacity of the floodplain area. He said most of the grading would occur in the upland areas. Mr. Musher stated that stormwater would flow in the direction that it naturally wanted to flow, but they would provide detention and water quality measures outside of the stream buffers and they would be engineered such that they did not have negative impacts downstream. He said rates of runoff could not exceed the pre-development rates, and from an engineering standpoint those rates would be held at or below what the rate of flow is off the site today.

Mayor Voller said he assumed what they were looking at now for the floodplain was the new FEMA maps. Mr. Musher said that was the newest information available, noting that in some places the new mapping was not quite in place. He said when they began the detailed engineering they would be working from the new maps.

Mayor Voller said he had spoken with some of the residents and they were happy that the developer had spent a considerable amount of time to meet with them, and they should be complimented for that. Other questions sent to him included when the water was coming in, how you would address that on Highway 64 when you are 70% built out; and, were you planning on a larger stormwater construction, or would these two ponds hold it all. Mr. Musher stated when it began to rain again, they would have to route the water through the detention measures, so that water coming down from the lowest point of the site still got into the detention facility. He said if it bypassed the detention facility then they would over-detain on the other parts of the site.

Mayor Voller asked if they had any interest in using those ponds during droughts for watering some of the areas there. Mr. Musher said that could certainly be looked at.

Mr. Culpepper said after this summer's drought conditions, all water gathered should be used. He said that potable water should not be used for irrigation, so detained water would be recycled in a watering program. He said that could not be dealt with at the rezoning phase, but could be considered after the site plan and during the engineering phase.

Mayor Voller stated he had received an email today about the first Gold LEED certified hotel built in the State, the second in the United States. He said if indeed they wanted to be a leader and if Pittsboro actually took that step, it would be great to see them do projects like this, such as greening the roofs. He said if they could be a small Town and ahead of the curve, then partnering in that way would be a positive.

Mayor Voller asked when would this be built if it were approved. Mr. Culpepper stated they had provided a phasing schedule, and the regulations provided a three-year timeline to begin construction. He said the water and sewer issues would have to be solved prior to 2011. Mr. Culpepper stated they had proposed the possibility of at first using a small on-site system, and they would be working to get the water and sewer issues resolved as quickly as possible so they could move forward.

Mayor Voller said he believed Mr. Culpepper was being sincere.

Commissioner Baldwin asked if the neighbors Mr. Culpepper had spoken to had generally been in favor of this project. Mr. Culpepper said at first, no, because they had been bound to a general use rezoning and he could not address the issues. He said they had now met with all the neighbors and addressed all the issues brought forward. Commissioner Baldwin asked if the neighbors were generally in favor of the project. Ms. Culpepper said they may not be totally pleased, but under the circumstances they felt that if there was going to be a development there that this was the best way to do it.

Commissioner Baldwin stated her other question was in reference to the statement that this project would not adversely affect the downtown. She asked him to expand upon that, and asked if they were considering building something downtown. She said they wanted the downtown to continue to draw people to it. Mr. Culpepper stated that the downtown offered something different than a shopping center, which served one type of need such as a grocery store. He said this area was situated between two large tracts that were being considered for future development. He said they would service the needs of people who accessed the site from Highway 64 and did not expect to see the traffic that other developments might expect to come through the Town center.

Commissioner Baldwin asked was he saying that individuals would not go through the downtown but utilize the bypass if they were coming from the Siler City area. Mr. Culpepper said he did not know that their market would get into the Siler City area, noting their market was likely more towards your east and towards the Wake County line. Commissioner Baldwin said then he was saying he did not believe that traffic would have an impact. Mr. Culpepper said it would be very minimal. He said in general you were developing nodes around your town. He said historic downtowns could live with shopping centers. Commissioner Baldwin said that was true. Mr. Culpepper said that was even more true when that shopping center paid its own way, took care of its own impacts, and created a tax base and not a burden that could then be used to improve the downtown.

Mayor Voller asked if they were pursuing an increase in water from the Haw River. Planner Monroe said it had come up during the needs assessment in terms of how much water was available. Mayor Voller said then they would be pursuing a needs assessment but that was not formally presented. Planner Monroe said it was only discussed.

Phillip Culpepper stated that it was included in the Hydrostructures report. Mayor Voller said the hydrostructures meeting had not yet happened. Planner Monroe said that meeting was scheduled for Wednesday.

Mayor Voller said he wanted it on the record that that was not in Mr. Hobb's report. Mr. Culpepper noted that the amount of water Pittsboro drew from the Haw was well under what the plant could operate under, noting there was not as much demand on the water as there was on wastewater treatment.

Mayor Voller said they could actually process more than they were currently. Mr. Culpepper said that was correct.

Mayor Voller asked was there an environmental assessment done for this project or the one before. Mr. Culpepper said yes, noting it was not a formal environmental impact statement but was a general assessment. He said there would be impacts, but they would address all of those impacts.

Mayor Voller said if they were to get out of Roberson Creek and switch to another place to discharge, and they had a number of places in the watershed critical area that became impervious surface, would that not put them close to the issue with their phosphorus and nitrogen loading in the creek anyway. He said that was an environmental engineering question that probably had not been looked at. Mr. Culpepper said if you stopped discharging into Roberson Creek today it would likely become the Roberson Creek basin and cease being a creek. He added that any solution they developed would be a long-term solution, 50 years or more.

Commissioner Brooks said regarding Mr. Culpepper's comment about releasing water, what kind of water was he referring to. Mr. Culpepper stated reclaimed water good enough for irrigation, but it would not be treated water. Mr. Culpepper said it would be water under the reuse level. Commissioner Brooks said one of the reasons they had problems with TTHM's was because their poultry plant had been shut down, so not as much water was moving through. He said he had inquired if there was any way to release water in that area, and he was told that the State would not allow it. Mr. Culpepper said that was likely because it was chlorinated potable water. He said when you discharged directly into the stream that was one thing, but when you discharged near the stream with reuse water and that water was allowed to migrate into the stream, was a different situation. He said that could help to maintain the stream habitat.

Commissioner Brooks said he believed most of the runoff flowed towards Roberson Creek, and asked if any of it flowed toward the Haw. Mr. Culpepper said he did not believe so. Commissioner Brooks said he did not know why the developer wanted to pursue this project given Pittsboro's many problems and the money it would take to solve them. Mr. Culpepper said they would have a large commercial project which really would not use up that much water and sewer. He said they had realized that paying their fair share was a rather large bill, and in fact were suggesting today that the fees the Town charged developers likely needed to be doubled. He said the Town should not be in the position of having to supply their sewer capacity. Mr. Culpepper said that should be their expense and they were ready to step forward to cover their fair share of expenses. He said they were looking at supply capacity for a larger group, but that larger group needed to step up and pay their fair share as well. He said right now they were in the position that the Town needed their fair share a little sooner.

Commissioner Brooks said some of the objections raised tonight to this project were very broad, but specific concerns had been expressed about what this project would do to the small entrepreneurs, how it would affect wage scales, impacts to the downtown, and others. Mr. Culpepper said they would have spaces within this development that would allow for small businesses to start up. He said there would be people whose business plan did not fit the downtown but would fit their development, so it would create options for such people. Mr.

Culpepper said businesses changed, as did business plans, and many times such developments provided an incentive for business owners to try something different or improve what they had.

Mr. Culpepper said Pittsboro had a great downtown, and did not believe this development would be direct competition to the downtown; that they could offer something different and not be drawing away from the downtown. He said, for instance, that a fast food restaurant at 64 Crossing would not draw customers away from the local downtown café, because they were two different markets. He said they could compliment and maybe even compete, but did not believe it would adversely affect the downtown.

Commissioner Brooks asked about the Danek family's concern regarding access. Mr. Culpepper said they had already added a private access easement to the Danek property, and their attorney had spoken to Mr. Smith but he was not sure what the status was.

Patrick Bradshaw said he did speak with Mr. Smith this afternoon, but believed he had heard Mr. Culpepper say that the 60-foot wide access easement to the internal private streets was acceptable, but they had not yet come to a resolution on the right-in/right-out drive on the exterior boundary of the property.

Mr. Culpepper said his staff had some questions about their ability to commit to that based on their analysis of where the controlled access points were. He said it was within reason to create that shared right-in/right-out, but they did not want to damage the buffers and landscaping already included.

Commissioner Brooks asked what would happen if the Board voted to do it, but an agreement had not been reached. Mr. Bradshaw said if it was approved tonight, he requested that the access the Danek family had requested be a part of that approval. He said they were willing to talk about that further. Mr. Culpepper said he would rather have the language hammered out to the satisfaction of both parties prior to that being made a part of the approval.

Mayor Voller asked what the schedule was for annexation. Mr. Culpepper replied they would want it annexed as soon as the first building was up. He said at this point he would not want to move ahead with a vote tonight with loose language, noting that the access issues needed to be worked out.

Mayor Voller said he understood if they wanted to come back after those issues were worked out. Mr. Culpepper said they needed to clarify the proper place for an access point, so that needed to be worked out as well.

Mayor Voller asked why this was not a spot zoning. Mr. Culpepper said because it was consistent with the existing Land Use Plan.

Commissioner Brooks asked if there were any adjacent property owners present this evening that might be affected by this project but had not commented.

Horace Britt, 151 Prince Creek, stated he had spoken with Mr. Culpepper on several occasions. He said when the project was first proposed, everyone in his neighborhood was upset and very much opposed to it. He said over the weeks and months, all of their concerns had been addressed by Mr. Culpepper and his associates. Mr. Britt said they still did not really like the idea of the project, but he had to say that the information they had been supplied met or exceeded all State recommendations in terms of environmental concerns, as well as exceeded all TJCOG concerns. He said development would come, and the one thing in their favor as well as the Town's favor was that the new landowner had a proven record as a developer, not a landowner trying to act like a developer. He said there was a big difference there. Mr. Britt said if development was coming, he and his neighbors were satisfied with what was being presented.

Mayor Voller asked Mr. Britt had he served in public office in the past. Mr. Britt responded yes, he had served a couple of terms with the Planning Board in the Town of Garner, as well as two terms as a member of the Board of Aldermen. He said he had also worked with the TJCOG on several large developments such as Kildaire Farms. Mr. Britt said in this developer's defense, all you had to do was look at some of their developments to see they were top quality developments.

Walter Harris, 281 Hillsboro Street, stated that he and his brother owned 35 acres on the east side of this property, but their property was one property away but not adjacent. He said they had not been approached, and because they had not been apprised they would trust the judgment of the Board and rely on that.

Maureen Temple Richmond, 26 Creekside Circle, said she understood that 75,000 gallons per day was the remaining amount that could be discharged as effluent. Planner Monroe said that was correct. Ms. Richmond asked if that included this project. Planner Monroe responded no. Ms. Richmond said then how much more discharge would this project create and where would it go. Planner Monroe said that was what the meeting today was about, so it was still under discussion.

Ms. Richmond asked was that something that could actually be resolved within legal limits.. Planner Monroe said they could always build a new plant. Ms. Richmond asked were they possibly talking about having another wastewater treatment plant near this site. Planner Monroe said not near the site but on the site of the existing plant. He said they had generally be considering that even before this project came forward.

Ms. Richmond said then was it to the Town's satisfaction that there was a technical solution to this problem that would keep them within their legal limits of effluent discharge. Planner Monroe said not within the legal limits of their current discharge, but with a new plant that discharge rate would change.

Ricky Spoon stated that a couple of good points had been made, noting this developer had a good track record and had worked well with him as an adjacent property owner. He said he had confidence that the wastewater issue could be solved with this developer.

Mr. Culpepper respectfully requested that the Board approve their rezoning request.

Motion made by Commissioner Brooks seconded by Commissioner Cotten to go out of public hearing.

Vote Aye-4 Nay-0

**ALL WRITTEN COMMENTS ARE RECORDED IN THE BOOK OF RESOLUTIONS
NUMBER ONE, PAGES**

COMMUNITY BUILDING RATE SCHEDULE

Motion made by Commissioner Cotten seconded by Commissioner Brooks to keep the old rates for this budget year.

Commissioner Baldwin stated she was concerned that the rates of the person currently using the facility, Candy Brooks, remain the same. She said for anyone else from this point forward, she agreed with raising the rates.

Commissioner Brooks said he basically agreed with Commissioner Baldwin, adding that that organization had provided recreational opportunities for children in Pittsboro for over 30 years with no Town funds involved except for use of a building that had been donated to the Town. He said he wanted users to pay enough to cover utility costs, but did not want that burden placed on that organization. He said for the record, he had never met Ms. Brooks and she was of no kin to him.

Commissioner Cotten said the reason he was requesting that they retain the rates for this budget year was because the building had been donated to the Town for community purposes, and he would much rather be assured of having some income than no income. He said another reason was that this was one single room with a few side rooms, and it would not be fair to increase the rates without doing some improvements to the building.

Mayor Voller said to clarify, the parking facility at the office building next door was actually on this property. Planner Monroe responded that was correct. Mayor Voller stated then anyone using this building could park there. Planner Monroe said those spaces were first come, first served. Mayor Voller said buildings deteriorated when they were not being used, so he was in favor of whatever it would take to keep the property in use.

Mayor Voller clarified that Commissioner Cotten's motion would keep the old rates in effect. He stated that the hard work of the Recreation Board was appreciated, noting they had done a lot of research on this matter.

Vote Aye-4 Nay-0

**CONSIDERATION OF A REQUEST BY RICKY SPOON TO REZONE
1.104 ACRES OF LAND LOCATED ON HIGHWAY 15-501
SOUTH OF ROSE DRIVE FROM R-12 TO C2**

Motion made by Commissioner Baldwin seconded by Commissioner Cotten to approve this rezoning.

Vote Aye-4 Nay-0

**CONSIDERATION OF A REQUEST BY RICKY SPOON TO REZONE
3.53 ACRES ON RUSSET RUN SOUTH OF THE CAROLINA
LIVING AND LEARNING CENTER FROM RA2 TO O&I**

Motion made by Commissioner Cotten seconded by Commissioner Baldwin to approve this rezoning.

Commissioner Brooks asked Mr. Monroe if they had made contact with the Carolina Living and Learning Center and they had no opposition to the rezoning. Planner Monroe responded he had contacted them and they expressed no opposition.

Vote Aye-4 Nay-0

**CONSIDERATION OF A REQUEST FROM CHATHAM PARK INVESTORS
TO REZONE TRACTS OF LAND ON EUBANKS ROAD FROM
RA2 TO MUPD FOR 64 CROSSING AT EUBANKS ROAD**

Philip Culpepper said regarding the right-in/right-out issue, under their MUPD wording they had granted private access easement to the property. Because they were not at the site plan they could not yet tell where that would go, but they would agree to 60 feet. He said the right-in/right-out that they showed in their illustrative site plan on US 64 had yet to be approved by the NCDOT and they had not received a driveway permit for that. He suggested that this issue was best to be solved at the site plan stage once they found out if NCDOT would approve the right-in/right-out.

Patrick Bradshaw suggested that if the rezoning was approved, without having these issues to the Danek property first resolved, that this property owner would essentially control access to the Danek property. He requested that in these circumstances that the Board delay action on this matter until its next regular meeting.

Mr. Culpepper stated his belief that the State controlled access to that property, and they had only granted access above and beyond what the State had been willing to give.

Mr. Bradshaw said Mr. Culpepper was correct that in order to have access to a public right-of-way he would have to have the approval of the State Department of Transportation. He said in order for an MUPD zoning and a Master Plan and subsequent site plan to be considered and approved, he would also have to have approval for the routing of the roadways and the locations of the driveways from the Town of Pittsboro. He said the Danek's were long-time property

owners of this property and others, and did not believe it was too much to request a couple of weeks more time for consideration and effort to resolve this matter by consent.

Commissioner Brooks stated he would like to see the two weeks granted. Mr. Culpepper said they would agree to that.

Motion made by Commissioner Baldwin seconded by Commissioner Bryan to table the rezoning for two weeks until the September 24th regular meeting.

Vote Aye-4 Nay-0

NEW BUSINESS

CONSIDERATION OF A REQUEST TO PURCHASE RADIO COMMUNICATIONS FOR THE POLICE DEPARTMENT

Motion made by Commissioner Brooks seconded by Commissioner Cotten to approve purchase of radio communication equipment as requested by the Police Department and outlined in the agenda materials.

Vote Aye-4 Nay-0

CONSIDERATION OF ACCEPTANCE OF A DONATED VEHICLE

Mr. Messick stated that the Town had received an offer from an interested citizen to donate a 1991 Oldsmobile, to be used for various activities for the Town.

Motion made by Commissioner Cotten seconded by Commissioner Bryan to accept this generous donation.

Vote Aye-4 Nay-0

UPDATES

Mayor Voller noted there would be an EDC meeting tomorrow in Town. He said they would be having a Rural Planning Organization meeting in October, and they would soon have the signal completed at Lowe's. He said for the Fairground Association tomorrow was the beginning of the Fair, and there would be a parade downtown at 6 p.m. He said that would mean that Springdale Drive would be open for emergency access.

COMMISSIONER CONCERNS

Commissioner Brooks said he had a citizen call him this weekend who was severely handicapped but mobile. He said the citizen had recently broken his leg trying to gain access to a business, and would like the Board to look at its ordinances and the State zoning laws to see what could be done to require or encourage businesses or anyone who served the public to make their buildings more handicap accessible. Commissioner Brooks said he would like to look into that.

Mayor Voller stated that the Americans with Disabilities Act did cover all new buildings, but the question would be what could be done about pre-existing buildings that had not been upgraded. Planner Monroe stated they have a lower threshold to meet the standards.

Mayor Voller asked if Commissioner Brooks was requesting a visual audit of places that could be upgraded. Commissioner Brooks said he would like to know what the law was and if anything could be done by the Board to help their handicap citizens. He commented on several businesses that did and did not have electronic doors, and how difficult it was for some to open doors manually.

Mayor Voller said he noted three handicap persons that he knew of that made use of Town sidewalks to move around, and believed it was a shame that they could not access all businesses because they were very mobile. He suggested looking at the downtown sidewalks to identify areas that might make it difficult for handicap citizens to access.

Commissioner Brooks asked that Mr. Messick look at State zoning codes and that Mr. Monroe look at what we did have, and then bring back information so that the Board could determine what was viable.

Commissioner Bryan stated he had the same kind of concern expressed to him by a different handicapped individual, who had been mostly concerned about the downtown area.

Commissioner Baldwin stated she had a concern about the amount of traffic since school had started, which appeared to have been alleviated somewhat. She said once the traffic light was operational at Lowe's she believed it would be alleviated even more.

Commissioner Cotten said he would be on vacation next week, but would return in time for the next meeting. He said he would miss the first Census meeting scheduled for September 20 that this Board had asked him to attend.

Mayor Voller asked if everyone would be attending the Hydrostructures meeting this Wednesday. Mr. Messick clarified that the time of that meeting was at 7:30 p.m.

Mr. Messick said they had received an email today from the Department of Environment and Natural Resources that indicated that the National Park Service through the Land and Water Conservation Fund had additional funds available at a maximum of \$100,000, which could be added to the \$341,000 for the Pittsboro recreation complex. He said the complicating factor was that the deadline to apply for these funds was September 18th.

Mayor Voller asked what would be the potential strings attached. Mr. Messick stated this grant would get the Town closer to the original estimate. Mayor Voller said then they would be at \$441,000 when they had originally had submitted for \$461,000. Mr. Messick said that was correct.

Commissioner Cotten stated he would like to see the contract before the Board accepted it.

Mayor Voller confirmed that the grant would have to be accepted by September 18. Mr. Messick replied it would have to be accepted by then in order to give DENR time to execute their contract with the federal government. He said once DENR had the federal contract, they would then contract between themselves and the Town.

Mayor Voller said they only needed to notify them of their interest and a contract would be forthcoming. Mr. Messick said the Town would actually have to accept the grant, but did not believe it would be any more restrictive than what the Town already had.

Mayor Voller said they had already accepted the conditions of the original grant, and this would shore up the funding gap. He asked for Mr. Messick's recommendation. Mr. Messick said other than the objection stated by Commissioner Cotten last time, he saw no reason not to accept \$100,000 from the federal government.

Motion made by Commissioner Baldwin seconded by Commissioner Bryan to accept the grant.

Vote Aye-3 Baldwin/Bryan/Brooks Nay-1 Cotten

Motion made by Commissioner Brooks seconded by Commissioner Cotten to adjourn at 9:25 pm.

Vote Aye-4 Nay-0

Randolph Voller, Mayor

ATTEST:

Alice F. Lloyd, CMC, Town Clerk