

MINUTES
TOWN OF PITTSBORO
BOARD OF COMMISSIONERS
AUGUST 23, 2004
7:00 P.M.

Mayor Nancy R. May called the meeting to order and gave invocation.

ATTENDANCE

Members present: Mayor Nancy R. May, Commissioners Max G. Cotten, Burnice Griffin, Jr., Clinton E. Bryan, Jr., Gene T. Brooks and Chris Walker.

Other staff present: Manager David Hughes, Clerk Alice F. Lloyd, Attorney Paul S. Messick, Jr. and Planner David Monroe.

AGENDA APPROVAL

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

Vote Aye-5 Nay-0

CONSENT AGENDA

Motion made by Commissioner Brooks seconded by Commissioner Walker to approve the consent agenda.

- Minutes of August 9, 2004 Board of Commissioners regular meeting.
- Set a date for Christmas Parade. Requested date and time is December 5, 2004 at 3:00 P.M.

Vote Aye-5 Nay-0

CITIZENS MATTERS

None

PUBLIC HEARING

Motion made by Commissioner Walker seconded by Commissioner Bryan to go into a public hearing.

Vote Aye-5 Nay-0

ASSESSMENT – PITTSBORO CHRISTIAN VILLAGE

Conduct a public hearing for a possible preliminary assessment resolution. This Assessment is requested to fund the reconstruction of the wastewater pump station at Pittsboro Christian Village.

PUBLIC COMMENTS:

Dave Dewhurst, Administrator, Pittsboro Christian Village, stated they held a residence meeting last week and the residents were opposed to this assessment. Mr. Dewhurst had in attendance with him several residents from the Christian village and when he asked them, they stated they were opposed.

Paul Stam, Attorney for Pittsboro Christian Village handed out information to the Board and staff. He said since an appeal from this would have to be “on the record” they have to establish a record. He started with the letter he wrote to the President and Board of Directors of Pittsboro Christian Village, but he authorized them to share it with town staff. He is using this because it is a much easier way to put together a factual basis of why they believe the resolution should not be adopted, plus it has a lot of documents with it.

INFORMATION (ATTACHMENTS) PROVIDED BY ATTORNEY STAM IS RECORDED IN THE BOOK OF RESOLUTIONS NUMBER ONE, PAGES 249-275

Letter from Paul Stam to President and Board of Directors of Pittsboro Christian Village. (See Attachment)

Attachment A is the initial inquiry to the Town. (See Attachment)

Attachment B is a letter from Mr. Hughes stating that he would agree that the Town is responsible for the maintenance and operation of the pump station....(See Attachment)

Attachment C is a copy of G.S. 160A-58.5. (See Attachment)

Attachment D is a letter dated April 19, 1983 from Town Manager Robert Hites stating the Town will maintain the sewer lift station and 4” force main but not the system within the development. (See Attachment)

Attachment E “An Ordinance to Extend the Corporate Limits of the Town of Pittsboro” dated August 8, 1983. (See Attachment)

Attachment F An agreement between the Town of Pittsboro and Pittsboro Christian Village dated November 17, 1983. (See Attachment)

Attachment G is the Permit from NC Department of Natural Resources and Community Development for the Gravity Sewer Extension. (See Attachment)

SPECIAL USE PERMIT – KAREN & GEORGE PHILLIPS

Conduct a public hearing for Karen and George Phillips Special Use Application. Property of concern is 254 Oakwood Drive. The request is to convert an existing duplex to two separate town homes.

PUBLIC COMMENTS:

Karen Phillips stated they have two sons and they would like to divide it so that both sons will have a property.

REZONING REQUEST – JOHN KROMBACH FROM R-15 TO O & I

Conduct a public hearing for a rezoning request by John Krombach for .822 acres from R-15 to O&I. Parcel is located at the northwest quadrant of NC Hwy 87 and US Hwy 15-501.

PUBLIC COMMENTS:

Letters were included in the agenda packet from: Satish Bhavsar, Donald & B. J. Whitt, Edward Holmes, Jr. and Nancy Greenwood.

COPIES OF THEIR COMMENTS ARE RECORDED IN THE BOOK OF RESOLUTIONS NUMBER ONE, PAGES 283-286

Jenny Bouldin, owns commercial property and is a business owner and former member of the Planning Board. We have experienced another broken water line, the third one in the last few months. The Town could use the money for repairs to lines. She is in favor of the rezoning request.

Carter Crawford, land planner working on this project. He went over a diagram and gave comments.

Kevin Brock, asked about lighting at night.

John Krombach stated he has put a lot of time and effort to be neighborly.

Mike Gutschanritter, 75 Cedar Run, is a citizen that does not have their oil changed in town, he can not leave his car all day for an oil change.

Scott Outlaw stated he was in favor of all this.

Kevin Brock, 940 Sanford Road, talked with Mr. Krombach and appreciates them trying to do things for the neighbors. Do not want to live by a quick lube, nothing personal. It would affect his quality of living.

Jim Hinkley, 126 Evergreen Drive, asked if the board have changed the Land Use Plan to allow rezoning. Legally you need to change the LUP before rezoning.

Cliff McCauley, moved in 1986 to Southridge, it will be a disgrace to have a jiffy lube in the backdoor of such a nice neighborhood. It might benefit people, but it would disgrace their property.

REZONING REQUEST – JOHN KROMBACH FROM R-15 TO C-2CU

Conduct a public hearing for a rezoning request by John Krombach for .415 acres from R-15 to C-2CU. Parcel is located at the northwest quadrant of NC Hwy 87 and US Hwy 15-501.

Mayor May asked everyone that was to speak at this public hearing to stand so that they could be sworn in. (Kevin Brock, Donald Starkey and John Krombach). Mayor May swore them in.

Kevin Brock stated with much respect he is not in favor of this.

Donald Starkey stated he has been living here for six years and this is the third time this matter has been before the board. Isn't there a limit to the number of times this can come up. He feels this will be spot zoning.

John Krombach stated the following:

Madam Mayor and Board of Commissioners.

Before I reiterate on the findings, I would like to incorporate, as Exhibit A, all the minutes and testimony from the meetings for the previous rezoning application, beginning March 2003, for the northwest quadrant. US 15-501 & 87 Bypass.

FINDING OF FACTS

Finding #1

A light auto repair or oil change facility is a valid business within the requested zoning of C2CU. A body shop on one corner and soon-to-be Mini Mart with gas service on another corner, should make a light auto repair and oil change facility an appropriate business on the proposed corner.

Finding #2

95% of the people I have talked to about oil changes already use a “quick lube” of some sort.

There are plenty of quick lube services in the surrounding towns, but with the price of gas, it’s unfortunate that people have to commute fifteen or twenty minutes for that service.

The direct impact of this application would be an increase of approximately \$2,000 to the county and \$1,350 to the town.

There will be residual tax money of approximately \$4,000 left for the county.

At least five (possibly seven) jobs will be created, two full-time and four part-time.

Finding #3

Traffic, I spoke with Rynal Stephenson of Ramsey Kemp and Associates, Inc. who did the traffic volume analysis of the intersections of US 15-501 and NC 87 only one year ago. He said unless there were significant increases in the surrounding properties or changes in our site plan, his findings would be the same as a year ago.

His count a year ago was 1,078, and projected a trip count increase of 14 vehicles or 1.3% with the addition of another 3 vehicles, when the additional office is built. This count is for US 15-501.

NC 87 has a count of 182 vehicles with an increase to 189 vehicles, or 4% increase with an addition of another 2 vehicles when the additional office is built.

These trip counts were all taken during peak traffic times.

In conclusion, the proposed site is not expected to have a significant impact on either the capacity or the safety of this intersection.

We feel that a six foot wooden fence along the south border of the Thrift property would give immediate buffering. We also propose to plant Red Cedar trees that will grow to 25 to 30 feet tall and will give almost 100% opaque buffering.

Since this is a business, it is likely lighting will only be at its maximum during business hours. The lighting for this project will either meet or exceed the town's ordinance. Using directional fixtures, there should be a very minimal amount of light to cause grievance.

Considering the current volume of truck traffic through the intersection daily, I don't think the sound of any servicing in the facility is going to present a noise issue in comparison.

The only chemicals to be housed in this building will be the typical fluids such as, windshield wash, anti freeze, gas treatment etc. and, of course, oil. The oil is delivered by case in a bulk truck during business hours. The waste oil is contained in a separate tank stored either outside, or in the basement and picked up, when needed, by a bonded specialist, again during business hours. Any of the other chemicals are treated in the same manner.

This building does come with a sign on the front and side with a pedestal type to be displayed out by the corner. Again we will meet or exceed the town's ordinance.

Finding #4

The site plan for the requested rezoning does provide the adequate information relevant to the Land Conservation and Development plan. It shows to be in compliance with the town ordinance requiring things such as, proper impervious surfaces, storm run-off catch basins, and distribution of run off so as not to harm the environment of the surrounding area.

Finding #5

The town will have a direct impact from tap fees, but the sale of water will be essentially the same, until the proposed additional office is built. If the current house is designated as an office and the Quick Lube is added, since they are both businesses operating under traditional business house as opposed to a 24-hour residence, water usage turns out to be basically the same.

Hydrostructures, PA, a local sewer evaluation company, evaluated the proposed site and drew up a plan showing how to deliver the waste water using tanks and grinder pumps with the specified GPA designs to deliver into the town's system.

We already have a driveway permit from NC DOT file No.52-566 for the site which is in compliance. The ingress and egress are designed for a comfortable fit on Highway 87 bypass.

With a 24-inch pipe running under Highway 87 through the Pittsboro Body Shop property. I have never seen any kind of back up during any kind of storm. With riprap properly installed as to the guideline of NC DOT, storm water runoff or backup should never be a problem.

These are the findings.

Please let me remind the Board that their decision should be based *solely* on these findings.

A COPY OF THE WRITTEN FINDING OF FACTS AND ATTACHMENTS ARE RECORDED IN THE BOOK OF RESOLUTIONS NUMBER ONE, PAGES 276-282

A COPY OF EXHIBIT A CAN BE FOUND IN A BOOK ENTITLED "KROMBACH REZONING 2003"

Motion made by Commissioner Bryan seconded by Commissioner Walker to go out of public hearing. Vote Aye-5 Nay-0

OLD BUSINESS

PROPOSED LEASE AGREEMENT WITH VOLLER REALTY

Consider a possible Option to Lease Agreement between Voller Realty and Construction, Ltd. and the Town of Pittsboro. The purpose of the agreement is to reserve the 1000 acre former Weyerhaeuser Tract while the feasibility/suitability of the site for a possible wastewater spray irrigation field is determined. The cost of the Option to Lease will be deducted from fees owed by the Vollers on phases 5A, 5B, and 9 of Chatham Forest.

Commissioner Bryan wanted to know why we would have to pay three months before the Board has even discussed the matter.

Manager Hughes stated that it was not suppose to be that way, it is suppose to be from the time of approval.

Commissioner Bryan asked where the ridiculous price of \$10,000 a month came from. He stated what ever we pay he would like to see a check written and the fees paid so that everything will be clean. Not in favor of \$10,000 per month surely not in favor of lease.

Commissioner Walker thanked Mr. Hughes and Mr. Voller for the letter from Carolina Farm Credit. It appears this may be somewhat risky for the Town of Pittsboro.

Manager Hughes stated that he hasn't been able to identify any large tracts available. A large development with a golf course may be able to use it.

Commissioner Cotten had concerns about whether the soil would perk. Soil and Water Conservation said it was good for forestry only. How can Pittsboro pay for this type project anyway.

Commissioner Walker stated he was not comfortable with \$10,000 month fee.

Motion made by Commissioner Walker to approve the option to lease. The motion died do to the lack of a second.

Commissioner Bryan stated we will be paying that amount for doing nothing. Let Mr. Voller pay his own interest.

Commissioner Cotten stated he does not like the financial arrangements, he does not think it is proper accounting procedures.

A COPY OF THE LETTER FROM CAROLINA FARM CREDIT IS RECORDED IN THE BOOK OF RESOLUTIONS NUMBER ONE, PAGE 287

FOX CHAPEL LANE AND SPRINGDALE CONNECTION

Consider a possible motion for connecting Springdale Drive and Fox Chapel Lane contingent upon Voller Realty and Construction, Ltd. making certain improvements to US 15-501 and Springdale Drive.

Motion made by Commissioner Brooks seconded by Commissioner Bryan to allow the connection of Springdale Drive and Fox Chapel Lane contingent upon the following:

1. Voller Realty & Construction, Ltd pays for all needed improvements to Springdale Drive to bring it up to all State and Town standards.
2. That Voller Realty & Construction, Ltd pay for all turn lanes on 15-501 turning into Springdale Drive recommended by NCDOT.

3. That Voller Realty & Construction, Ltd pay for curb and gutter on Springdale Drive; build sidewalk on Springdale to Town standards. (Both sides of the street)
4. Voller Realty & Construction, Ltd provide a traffic calming device at the joining of Springdale Drive and Fox Chapel Lane. Commissioner Cotten and staff to approve design.
5. No ingress or egress between the two streets until **all** improvements are made. A barrier to be installed that is a breakaway for emergency vehicles. Construction of said barrier must meet both purposes – prevent ingress and egress and allow the entrance of emergency vehicles.
6. That Voller Realty and Construction, Ltd provide Town Attorney, Paul Messick copies of all deeds, recorded easements and any other documents that show the company's right to dedicate to the Town the street (Fox Chapel & Springdale) connection. When all contingencies are met.
7. That a letter be sent to all petitioners for the above changes that stated their address informing them of our decision and including that section of the subdivision regulations that fits this situation and the date the ordinance was passed to prevent **any** misunderstanding about our action. As follows:

Section 3.3 Temporary Improvement

The applicant shall build and pay for all costs of temporary improvements required by the Town Board and shall maintain same for the period specified by the Town Board. Prior to construction of any temporary facility or improvement, the developer may be required to file with the Town a separate suitable bond for temporary facilities, which bond shall insure that the temporary facilities will be properly constructed, maintained and removed.

Section 3.4 Costs of Improvements

All required improvements shall be made by the applicant, at his expense, without reimbursement by the local government.

This was adopted in September, 1993.

8. That Attorney Messick provides a written report to the Board regarding the legality of these conditions.

Commissioner Cotten asked Mr. Voller if he was willing to do these improvements. Mr. Voller said no.

Commissioner Cotten asked Attorney Messick if this would constitute an assessment.

Attorney Messick said it would not because the approval would be contingent upon the improvements being made.

Commissioner Cotten stated he feels the connection should be allowed without all the other stuff.

Vote Aye-4 Bryan/Brooks/Walker/Griffin
Nay-1 Cotten

3-M REUSE PROJECT PUBLIC MEETING

Set a public meeting for the 3-M Reuse project. The purpose of the meeting is to have a public presentation of the project and take public questions and concerns. The meeting is a requirement of the Construction Grants and Loan Section of the Division of Water Quality. Requested meeting date is September 30, 2004. Meeting can be held during the day and commissioner attendance is not mandatory.

It was the consensus of the board to schedule the meeting for September 30, 2004 at 7:00 p.m.

KENDALE OFFICE BUILDING EXTENSION

Consider an extension of the site plan for Kendale Office Building proposed at the corner of Salisbury Street and Masonic Street. The current site plan is due to expire on October 13, 2004 and the request is for a one year extension.

Motion made by Commissioner Cotten seconded by Commissioner Walker to approve a one year extension for the site plan for Kendale Office Building.

Commissioner Brooks wondered if we can limit it to one extension. He was advised that is what the current policy is.

Vote Aye-5 Nay-0

COMMISSIONER CONCERNS

Manager Hughes stated he talked with an Assistant Director with DMV and he stated they have had discussions about offices other places but only one was approved in seven years. They are trying to get rid of them.

Commissioner Bryan stated November 11, 2004 is Veterans Day. The Board had agreed to help sponsor it this year. He has the task and he would like to hold some type recognition of veterans at the courthouse or community building.

Commissioner Walker stated he could see about getting a couple of speakers.

REFER TO PLANNING BOARD FOR RECOMMENDATION

Motion made by Commissioner Bryan seconded by Commissioner Walker to refer the following items to the Planning Board for recommendation:

- Special Use Permit request from Karen and George Phillips. To convert an existing duplex to two separate town homes.
- Rezoning Request from John Krombach for .822 acres from R-15 to O&I.
- Rezoning Request from John Krombach for .415 acres from R-15 to C2CU.

Vote Aye-5 Nay-0

Commissioner Brooks asked Attorney Messick to have comments on the stand the Christian Village Attorney has, before we go further with this matter.

Motion made by Commissioner Bryan seconded by Commissioner Brooks to send a letter of accommodation to the public works department and the office staff for the handling of the water line break.

Commissioner Brooks stated the office staff works hard.

Vote Aye-5 Nay-0

ADJOURNMENT

Motion made by Commissioner Cotten seconded by Commissioner Bryan to adjourn at 8:40 pm.

Vote Aye-5 Nay-0

Nancy R. May, Mayor

ATTEST:

Alice F. Lloyd, CMC, Town Clerk