

**TOWN OF PITTSBORO
PLANNING BOARD
MINUTES
REGULAR MEETING
MONDAY APRIL 7, 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-absent.

APPROVAL OF THE MINUTES: Ms. Farrell made a motion to approve the minutes of the Rescheduled meeting of **March 6, 2008**. Mr. Howard seconded the motion; it passed unanimously.

Mr. Hoyle indicated that Powell Place Village Center Phase Two-Commercial Site Plan was the first item on the Agenda. Monroe lead the discussion by noting that the original plan for stormwater drainage to a detention pond in the south west corner would have resulted in a retaining wall that would reach a height of 16ft. A proposed alternative of the plan was introduced by Fred Boone, an engineer from the John R. McAdams Company. An alternative was suggested by Mr. Boone in which his client would purchase a grading easement from an adjacent parcel of land owned by East West Partners. Mr. Hoyle asked if Mr. Boone could put it in "simple terms" and if the retaining wall was to be eliminated with the alternate plan. Mr. Boone said that they are looking to obtain the grading easement from the adjacent property. The current plan shows the retaining wall reduced in size to 4 to 6 feet in height, because they have not obtained that grading easement, this retaining wall would be temporary in nature until further development takes place. Mr. Hoyle asked Mr. Boone if his company was in negotiations with the adjacent property owner and Mr. Boone replied "yes". Mr. Boone also stated that if they receive the grading easements from the adjacent property the retaining wall would be eliminated altogether. Mr. Plummer asked if they did not happen to receive the grading easement if the 4 to 6 feet of retaining wall would be eliminated with future development, Mr. Boone replied "yes".

Monroe asked if the board would consider another issue that Mr. Mosher has brought to him. Mr. Mosher would like to be able to use the connection points which go from parking lot to parking lot as parking spaces. Mr. Mosher told Monroe that it would be difficult for him to rent the buildings out because of the lack of available parking Monroe stated that the connection points are on the plan to eliminate the need to go to Powell Place Lane to enter the other buildings. Monroe also stated that the parking spaces would be converted back to

connection points when further development takes place. Mr. Plummer asked how many parking spaces there were and Monroe said that there were 6 spaces, three on each side. Ms. Farrell asked how we could guarantee that this would take place and Monroe said that it would be a condition of approval. Mr. Hoyle asked if these were converted later how you would take care of eliminating the necessary parking places. Monroe said that he asked that the standard be reduced on parking spaces and that it would be a condition of approval for everyone that comes "down the road" that there will be these future connection points as development happens.

Chairman Hoyle asked Mr. Boone if he had a timeline for purchasing the grading easement from the adjacent property, Mr. Boone replied "no we do not".

Chairman Hoyle then asked Monroe if this was the first time that the Board had heard this information, Monroe said that indeed it was. Mr. Hoyle then stated that since that is the case they don't have to rule on this subject yet. Monroe said that if they wished to take action that it wouldn't be a problem. Ms. Farrell stated that on Monroe's notes this issue did seem to be minor. Mr. Collins asked what kind of businesses would be going in and Monroe responded "offices".

Chairman Hoyle asked the Board if there were any other questions, **Mr.**

Plummer stated that he believes it is pretty straightforward and made a motion to recommend approval based on the notes showing the changes that were agreed upon, this was seconded by Mr. Collins. Chairman Hoyle took a vote; it unanimously passed.

Chairman Hoyle asked Monroe for information regarding the CCC Sustainable Technologies Building. Monroe stated that the plan the Board had before them was to be used as reference but to dismiss the library at this point. Monroe also said that this piece of property was in a quadrant that was not subject to the watershed overlay standards, so they do not need to have a detention pond. Monroe also stated that the one "hitch" to this plan is the entrance to the property. A DOT official is concerned with the alignment of the driveways; the solution that they have come up with is a round-a-bout. Chatham county officials have agreed to fund the construction for a cost of \$400,000.00. The round-a-bout was the safest design for realignment that the DOT approved. Monroe said that he would be happy to take any questions. Ms. Farrell asked if Monroe would see the design of the round-a-bout before construction and Monroe stated that he would see it when the DOT came for the driveway permit, so he hoped he would see it before construction. Mr. Hoyle asked if he heard right that the county was going to pay for the design and construction of this, Monroe said "yes". **Mr. Howard motioned to recommend approval based on what they have discussed, Ms. Farrell seconded the motion. Chairman Hoyle took a vote; it passed unanimously.**

Mr. Hoyle called the next item on the Agenda, the MTC Zone Text Amendment. Monroe stated that the recommendation that Mr. Bradshaw has entered to change the language as it applies to residential development along major highways, so that both the residential and nonresidential properties are held to the same standards. Monroe mentioned that in his notes to the Board that the request was rather modest, and he did not see a problem with Mr. Bradshaw's request in having the same standards apply to both residential and nonresidential. **Mr. Plummer made a motion to recommend approval, Ms. Farrell seconded. Chairman Hoyle took a vote; it unanimously passed.**

Mr. Hoyle stated the Baddour Rezoning was next up and asked Monroe to further explain. Monroe stated that the Rezoning request was for a house owned by Mr. Baddour and his wife. The house is on West Street, which is mostly zoned commercial. Mr. Hoyle asked if the property neighbors were aware of this request, Monroe stated that they were aware and were even invited to join the request. **Ms. Farrell made a motion to recommend approval of the rezoning, Mr. Plummer seconded. Chairman Hoyle took a vote; it passed unanimously.**

Mr. Hoyle stated that there was business to take care of from the last meeting concerning Pittsboro Commons Rezoning and Special Use Permit. Monroe stated that in his memo to the Board the first issue was the lack of acceleration lanes on Highway 15-501 from the entrances and exits into the project. Monroe said that in the MTC Overlay turning lanes are required, not acceleration and deceleration lanes. Monroe also stated that he talked to the traffic engineer from the John R. McAdams Company last week about the feasibility of installing these acceleration lanes and he did not believe that they were warranted by the DOT and could in fact pose risk. Monroe stated that he agreed with him in particular with regard to the primary entrance/exit, because this acceleration lane would lead directly into a deceleration lane coming into the secondary entrance. Monroe also said that in his experience he fully agreed that this would lead to a very dangerous condition. Monroe then said that the engineer concludes that the second acceleration lane would put the drivers of cars in a bad position for viewing oncoming traffic because it is going into a curve, the DOT generally finds that people who sit perpendicular to the road have a better sight axis triangle to look down the road to see what is coming and make decisions on when to enter the traffic stream. The second point that the engineer makes is that a traffic signal nearby, which will create breaks in traffic so that people can exit safely. Monroe said that he believes that the arguments that were presented were reasonable and given the oblique language in the MTC Overlay they seem to be good interpretations based upon good engineering science and data. Monroe said that there were some notes added to the plans now that would identify the intent to save some mature trees along the frontage of 15-501 which has been an issue. The ordinance says that there should be a buffer of no less

than 5 but no more than 100 feet in the intent, that buffer is to preserve the vegetation and protect the rural appearance of the area. This property poses some distinct challenges given its topography and the fact that most of the mature trees are closer to 15-501, Monroe also stated that the site significant differences in elevation and in fact one engineer described it to him as being almost like a "Hershey's Kiss". Monroe then told the Board that they needed to decide if the proposals made by the American Asset Corporation and McAdams Engineering Firm go to the intent and spirit of preserving the rural nature of the frontage. Monroe also stated that his memo also included other issues that he was sure the representatives wanted to address.

Joe Dye representing the American Asset Corporation started by commending Monroe and Mr. Messick for working with them on various issues over the last month. He said that he believed that Monroe did a good job of capturing the first two items in his memorandum, and that he would be glad to go over the rest of the items on his memorandum with the Board. He also said that he would point out that the business model for American Asset as a developer is for the long term, we're deliberate in our approach, which is why we spent the time to work out a mitigation plan that was acceptable to the CLLC folks, we spent a lot of time analyzing traffic for Northwood High School as well as addressing some of the concerns that Monroe has about 15-501, hopefully we have adequately addressed those as he described earlier. He then said that he has Mr. Bradshaw representing the company for the rezoning and special use permit for this particular project, Brian Purdy and Cara Lacey who are Landscape Architects, Fred Boone who spoke earlier, as our Civil Engineer, Earl Lewellyn who is our Traffic Engineer, and our Stormwater Engineer Brandon Finch all from the McAdams Company are here to answer any concerns that you have on the various elements that Monroe spoke about earlier.

Chairman Hoyle asked "How far are you away from the right-of-way do you start your parking lot with regards to this Mr. Dye?" Mr. Dye deferred the question to Mr. Purdy. Mr. Purdy said that the average depth if you will from the right-of-way to the extended parking is approximately 20 feet across the frontage. Mr. Hoyle said that it would be interesting to see what kind of landscaping they would propose that would buffer 20 feet to block any kind of visibility to the cars that are parked there. Mr. Hoyle asked if any Board member had any questions for Mr. Purdy and Mr. Plummer said that he had a question for Monroe. Mr. Plummer asked about a comment in Monroe's notes concerning the proposed uses for the property and Monroe stated that these uses seemed incompatible with the type of clientele that would visit the buildings on a daily basis; Mr. Dye agreed.

Mr. Hoyle then moved on to the issue of the lack of agreement in regards to the completion of the project. Mr. Bradshaw stated that the ordinance does not have a limit; this is a limit that Mr. Messick put on the memo and was actually regarding a different project. Mr. Bradshaw then said that Mr. Dye was

prepared to speak on what is a reasonable time frame for the required infrastructure. Mr. Bradshaw also reiterated that the town does not have a regulatory time frame that is already set out. Mr. Dye then said that the last draft from Mr. Messick said that they have 3 years to begin and a 12 year anniversary or done line that they have proposed. Mr. Dye also stated that his company is very deliberate, and that they own and hold everything that they build. He then said that everyone knows that we are in a housing crunch right now and that they have to look at the growth that will occur now and over time in Pittsboro but also greater Chatham County as a growth model for this particular project over time, we think it is well located and we want to be deliberate and get the best tenants and mix of tenants over time. Mr. Dye said that at this point his company does not have a problem with a "sunset date" or limit he thinks that that is a good thing to have. He also said that they have experienced that in other jurisdictions, his request was for some more flexibility in the time frame such as 12 years versus 10.

Mr. Bradshaw then added that this is a project that was not going to be built all at once, and when any portion of the project was built the required infrastructure to serve that portion is going to have to be built. He then said that they are really just trying to anticipate what the entire life of the build-out of this project will be and when they should be required to build required infrastructure such as road improvements, water and sewer lines, and soil and erosion control measures. It was clearly stated that when the project develops, so will the required infrastructure.

Mr. Monroe then expressed concern over the permit automatically expiring if there is not an application from the developer within twenty days of the approval of a certificate of occupancy to annex that portion of the project or the entire project. Mr. Bradshaw said that that is acceptable, he also said that in prior discussions with Monroe and Mr. Messick that they had talked about the deadline in a sense of having that property being annexed will be when the first certificate of occupancy for any building on the property is issued so that is when it will actually be annexed. Mr. Bradshaw said that he takes Mr. Messick's comments to be that within twenty days after the certificate is approved or zoning is approved the applicant will sign a petition to have the property annexed at that time, when the certificate of occupancy is issued. So with that caveat and understanding, that condition is acceptable, Mr. Bradshaw concluded. Ms. Farrell suggested having that specific wording. Monroe stated that the Board members had the two resolutions in their packet, one attached to the memo and one behind it. Monroe said that Mr. Messick's wording regarding annexation is highlighted in blue. Mr. Bradshaw stated that the effective date as set forth herein that Mr. Messick is referring to is when the certificate of occupancy is issued, Monroe agreed.

Monroe then went on to the next subject that had to be reviewed, which is the applicant having proposed that there be no minimum lot size or minimum street

frontage, but the MTC regulations call for a 2 acre lot with 300 feet frontage. Chairman Hoyle voiced his concerns about making the town as pretty as possible, and that he did not think that a 20 foot buffer was enough. Mr. Bradshaw corrected him by saying that he and Monroe were speaking about a totally different issue. Mr. Bradshaw then continued by saying that what he had thought, even though he had not discussed it with Monroe, is that the MTC is talking about a non-residential project has to be located on a site of greater than 2 acres, so it doesn't use the word lot which is a defined term in the zoning ordinance, site is not a defined term this is a unified project under a special use permit, pursuant to a site plan that's on a site that is well more than 2 acres with well more than 300 feet of frontage. Mr. Bradshaw then said that he thinks that the purpose of the MTC regulations is satisfied by an application like this, when it is a site of more than 2 acres, not a lot of more than 2 acres. Mr. Hoyle then asked Mr. Bradshaw to define a lot and a site to him. Mr. Bradshaw said that a site is not defined in the ordinance and lot has a sort of long definition but he believes it is defined as a parcel of land that is to have a building or group of buildings located on it. Bradshaw then said that he could get the exact definition of it if he wanted but he said that the MTC regulations do not say lot, they say site and that this is a site of more than 2 acres. Bradshaw then reminded the Board that they have control over the appearance of it because the Board has to approve the site plan. Mr. Dye then stated that if he were to infer it correctly, if there were to be 2 acre lots all the way up 15-501 there would theoretically have several driveways and here you will have unified development that has limited driveways that serve the entire site. He believes that that is what the MTC intended. Chairman Hoyle asked Monroe where are we on that issue and Monroe replied that he thought that it was a reasonable interpretation. Chairman Hoyle then asked Mr. Bradshaw what is to stop his client from putting a "big box" on the property, Mr. Bradshaw responded by saying that the Board would have to approve any changes to the special use permit. Monroe also stated that they may deviate from the plan with minor changes but that would take place between himself and AAC, but ultimately the Board would have the final say in any major change that would take place. Monroe raised the next issue of regulations including Sections 5.5.11 through 5.5.13, Mr. Bradshaw did not object to this issue and was in agreement, as was item 4 on the memo. Mr. Monroe then asked that the best management practices, where practical, including bio-retention areas, infiltration trenches, vegetative swales, roof runoff catchment devices to provide for landscape irrigation, and similar techniques. Mr. Dye said that they would like to include some sustainable design practices; he asked that they include all of the DENR BMP Manual alternatives available, because they have had success and failures with different techniques. Mr. Plummer asked who would ultimately decide which practices to use, Monroe said that DENR would. Mr. Bradshaw then said that they would like to change the wording to say that "including techniques as

identified in the DENR BMP Manual". He also added that the Town of Pittsboro also gets ultimate control on this because it comes back to Monroe on the construction drawings.

Monroe then moved on to item 8, in which he stated that the intent is not to impose architectural standards but to guarantee that the developer will give assurance that the center's design would be unified. Mr. Bradshaw stated that he thought that it was just a miscommunication, and everyone agreed. Mr. Hoyle voiced his concerns about the North side of the development, he believed that there were going to be buildings that were to have their back to 15-501, and he asked if this could be addressed. Mr. Dye pointed out that there is a lot of existing vegetation to address this issue, also there would be berms built up to alleviate this concern.

Mr. Monroe then discussed item 9, and asked that they have the Soil Erosion, Sediment Control permit before they are issued a building permit, not an occupancy permit. Mr. Bradshaw agreed to that request.

Mr. Hoyle asked about item 11 concerning roof runoff for landscape irrigation; Mr. Dye asked that the wording be vaguer as in item 4, where they are not limited to certain techniques. Monroe asked that the developer take into consideration the drought that North Carolina endured this past year and asked that it be requested that they find an alternative to irrigation with potable water. It was agreed by all parties to mirror the language used in item 4.

Number 13 was discussed next, Mr. Messick will develop language for this section, Mr. Bradshaw stated that he had just received the papers that afternoon and he and Mr. Messick were in agreement to meet and discuss the issue further. Mr. Dye said that they also agree to do this for item 13 b. Also, item 18 is was in agreement.

Mr. Hoyle then asked if there was any resolution to item 1, Ms. Farrell recommended 11 years. Mr. Bradshaw posed the question that why it makes a difference how long it takes. Mr. Hoyle asked if everyone was in agreement with 12 years, everyone agreed.

Mr. Hoyle asked if Monroe had any other questions, Monroe said no, Mr. Hoyle then asked if there were any other questions or concerns; there were none. **Mr. Plummer then made a motion to move it on with the stipulations that they had just discussed. Mr. Hoyle then asked if they could go a little further and asked that they be completely resolved. Monroe asked that the Board amend their motion to stipulate state that the Board is recommending approval of the resolution as amended. The Board unanimously agreed. Ms. Farrell seconded the motion, also asking that all of the resolutions be "taken care of" so that when it is presented to the Board of Commissioners it looks clean and neat. The vote was taken; it passed unanimously.**

Mr. Hoyle then moved on to the next item on the Agenda; Chatham Oak PUD-Habitat for Humanity. Mr. Hoyle had reminded everyone that they have talked

about this item at the last meeting and asked "What did you find out what they could resolve in terms of the sewage?" Monroe stated that both he and Mr. Messick, and he believes that Mr. Bradshaw concurs, that this plan be ought to be reviewed on its merits and not upon the requirement that some alternative source for wastewater treatment capacity be defined. Monroe also said that the application was tendered in a time when it was not subject to the terms of the moratorium. Mr. Hoyle then reminded everyone that this was a special use permit for PUD, with special findings that they must resolve. Mr. Monroe advised the Board that the capacity needs are for 11 or 10 residential units, and at worst case scenario that would be 3600 gallons, assuming that the 10 would be 3 bedrooms. Monroe went on to add that he was not sure that was the intent of the applicant, but at the worst that would require an additional 3600 gallons. Mr. Monroe also then reminded the Board that at the last meeting they approved a McDonalds which came in at approximately 1700 gallons, the Board has approved a CVS and a KFC that combined came in a 2000 gallons. Monroe then pointed out a chart that he had given the Board showing capacity limits, noting that these were limits not being reached at this time. Monroe also stated that they have committed somewhere in the neighborhood of 500,000 gallons, but they are not treating nearly that much right now. He said that they are treating 300,000 to 350,000 right now. So there is a difference of what the plant can effectively treat and what it is permitted to treat. Mr. Plummer asked if there is not a "hard" number that the plant can effectively handle right now. Monroe responded by saying that the plant is permitted for 750,000 gallons, we do not know yet exactly what the plant can handle; engineers are looking at that issue right now. Ms. Farrell asked how much of the 750,000 limit has the Town of Pittsboro allocated, Monroe responded with 550,000. Monroe pointed out that the 200,000 gallons that went to Powell Place was reserved by contract, so on paper the state considers that as gone. Monroe then said that there was a development next to Horton Middle School that was allocated 5000 gallons and he believes the site plan has expired, and based on the contract that assigned the 5000 gallons, the amount has since reverted back to the town with no expense to the Town of Pittsboro. Monroe also said that there is 15,000 gallons to Pittsboro Place that they have to deliver wastewater to the Town of Pittsboro by November or it is reverted to the Town of Pittsboro. Ms. Farrell said that she believes that in just the swapping of Sanford Roads allotment of 5,000 gallons alone seems justifiable in and of its self to supply the 3,600 gallons needed for this project. Mr. Hoyle asked if it was 10 total units and Mr. Bradshaw responded 10 additional units. Mr. Plummer then asked if they were all 3 bedrooms or were there going to be some 2 bedroom units, a representative said that they were all mainly 3 bedrooms with possibly some 4 bedroom units. Mr. Hoyle then stated that a citizen at one of the prior meetings had voiced concerns over the project and wondered if anyone had addressed those issues. Mr. Harvey Harmon spoke and said that he has met with her several times about

putting buffers between her property and Habitats property, but she had pit bulls that were on Habitats property so he was unable to flag the property. Mr. Hoyle said that that issue has been dealt with then. Monroe then said that he asks if the Board is to recommend approval that they find the following; the application is complete, the development complies with the zoning ordinance, the development will not materially endanger the public health or safety, it will not substantially injure the value of the adjacent or abutting property, that it will be in harmony with the area in which it is located, and it is in general conformity with the land usage act. **Mr. Howard agreed with the resolution and motioned to recommend approval, Mr. Collins seconded. Mr. Hoyle asked any other questions; Ms. Farrell asked if Monroe needs a specific resolution regarding capacity, Monroe responded that it is all part of the record. Mr. Hoyle took a vote; it passed unanimously.**

Mr. Hoyle asked if there were any Board member concerns, Mr. Hoyle had one about the new KFC coming in, he stated that the land had been raised considerably and asked how it affects the landscaping and would be changed accordingly. Monroe said that it affects the two parcels to the north, the slope was going downhill considerably and there were a number of pine trees in the DOT's right-of-way. Monroe said that he and others are working to keep them. Monroe also said that the CVS has donated 1,000 dollars to plant trees in Kiwanis Park, in exchange for the removal of 1 tree.

Mr. Hoyle asked if any other questions, Ms. Farrell asked when we have a question that comes in if it is necessary if the Board has to handle all of the little details and couldn't it just be worked out between Monroe and the attorney's. Monroe said that this particular resolution needed some extra time and clarification from all parties involved.

Mr. Hoyle congratulated Mr. Hugh Harrington on his win for Commissioner. Mr. Howard asked if there was anything that could be done about the General Store Café parking issue. Monroe said that we could contact the DOT about putting up a sign.

There being no further concerns or questions, **Mr. Hoyle made a motion to adjourn. Mr. Howard seconded the motion; the meeting adjourned at 8:40.**

