

**TOWN OF PITTSBORO
PLANNING BOARD MEETING MINUTES
Monday, December 1, 2014, 7:00 PM**

ATTENDANCE

Members Present: Raeford Bland, Brian Taylor, Carolyn Elfland, Shannon Plummer, Oakley Bennett

Staff Present: Stuart Bass, Planning Director, Ileana Platon, Administrative Support Specialist, Paul Messick, Town Attorney

A. CALL TO ORDER

Chairman Bland called the meeting to order at 7:00 pm

B. APPROVAL OF MINUTES

November Minutes will be distributed to the Planning Board this month for review and approval in January's meeting.

C. NEW BUSINESS

1. REZ-2014-04

Chatham Park Investors LLC

Chatham Park PDD Rezoning and Master Plan

Recommended Action – Discussion, Recommendation.

Motion on Consistency Statement

Mr. Bass stated that Chatham Park LLC is proposing to add approximately 46 acres to the previously approved Planned Development District Rezoning (REZ-2013-02 from June 9th, 2014). Some text change revisions have also been incorporated into the Master Plan. The Board received a copy of the Master Plan on or about November 14th, along with an edited version of the document highlighting the text changes. Also, please note that this request affects the entire assemblage, and if approved, would supersede the June 9th approval.

Formal Public Hearings conducted by the Town Board of Commissioners were previously held On June 24, 2013, July 22, 2013, and May 20, 2014 for the initial rezoning.

A recent public hearing was held on November 24, 2014 for this proposal. Attached to the memo distributed tonight are the parcels that are proposed to be added to the Planned Development District which totals 46.615 acres. Also attached is the consistency statement which the Town should adopt first and the written recommendation, both will be forwarded to Town Board of Commissioners.

Mr. Bland asked Mr. Bass if he could elaborate on the differences of the two plans.

In response Mr. Bass explained that the primarily text changes were associated with Chapters/Articles 8 and 10 and some others are points of clarification and also outlined the legal process to adopt the additional elements which is the same process used for the plan itself.

Lacy H Reaves of the Smith Anderson Law Firm in Raleigh, North Carolina addressed the Board and announced that also present were Tim Smith and Julian Rawls, principles of Chatham Park Investors and Phillip Culpepper, Lead Planner and Planning Consultant as it relates to the Chatham Park Master Plan. As Mr. Bass indicated they have filed a new zoning case with regards to Chatham Park. The purposes of the case is twofold, first they have added approximately 46 acres to the area of Chatham Park, these are several parcels of additional properties that were acquired during the prior dependency of the prior rezoning case or shortly thereafter. They have also filed a new Master Plan which changes were also described previously by Mr. Bass. They are taking this opportunity to clarify some provisions of the plan, primarily provisions dealing with the twelve additional elements which will be supplemental chapters or provisions that will be added to the regulations applicable to Chatham Park. They will be proposed by the applicant within the two year period following the final approval of the rezoning of Chatham Park and they will deal with a number of topics some of which are addressed in the Master Plan and will be addressed in more detail in these additional elements. Some are new items which are perhaps mentioned in the Master Plan but will be dealt in substantially more detail in the additional elements related to those items. He is here to answer any questions the Board members may have or go on a page by page basis if they desire.

Mr. Bland suggested that perhaps they could start with some questions that would be more to the point.

Mr. Reaves asked Mr. Culpepper to join him at the podium.

Ms. Elfland inquired and requested an explanation about the paragraph on open space on page 37. She understands that essentially it states that open space is to be identified with each small area plan but sometimes you may choose to designate open space with a particular small area plan somewhere outside of that area, so that open space does not necessarily have to be set aside within that plan. But then it says when open space is identified within the boundary of another small area open space plan shall be treated as established at that location this will be finding on that small area plan.

Mr. Culpepper explained that in some cases they may be working in one section that does not have good quality land for open space but the next section does. When they move it to that new section they have to show it on that section and it will stay in that section.

Ms. Elfand then asked what happens to the original requirement of the new section chosen. It is not clearly identified. She wants to make sure it is stated “**in addition to**”.

Mr. Reaves said that they wanted to clarify that it could not be basically granted in one small area plan and then taken away. They are assuring that it will be changed.

Ms. Elfand then asked about retitled Section 7 and how it now says “and phasing plan”, however, she believes there it is not a phasing plan. Then in Section 10 “additional provisions” it says development phasing plan. She understands that what is meant is that the driving of the phasing plan is the developer which makes perfect sense and she is in agreement, however, she is concerned because what is on page 40 is not a phasing plan, but then on page 46 these additional provisions used to just be a list. Now for some of these like trees, parking, lightning and signage there is still a list, but when it gets to the development phasing plan it’s been qualified and it says, “Which will address additional items and will provide more details with respect to items addressed in the development phasing plan included in the Master Plan”. What does it really say and why is it placed there. What she interprets is that this sort of limits what the development phasing plan can be, whereas before when it was just a list it was kind of wide open and there was discussion about the fact that these things would probably come after the UDO or the UDO would inform what the contents should be. There is no specificity at all about what the content of each of these individual plans should be. There is no way to know if people would agree on what the contents should be or not because it is absent. We have spoken about the fact that the UDO would be there and Chatham Park would follow it, etc., but now she does not understand why there are these additional subcategories with extra language after them, but they do not say anything to her it does not feel like it means anything.

Mr. Culpepper replied by saying that they felt they always had a phasing plan to begin with. They added the verbiage on page 40 to make people more comfortable and aware that they do have a phasing plan, they are not trying to change the phasing plan but just trying to clarify it. It’s primarily the same text they’ve had with some revisions.

Mr. Reaves stated that they chose to add additional material in some cases and not others.

Ms. Elfand said that in the cases where they did it just says “will address additional items or maybe they will give more detail to respected items already addressed”. That could mean that they might do something or nothing or everything, she has expressed a number of concerns back in May and she believes the purposed of this Board is to give the best advice to the Commissioners. She is confident they heard the Planning Board’s advice including what her thoughts were and she does not think she needs to repeat them. She is very concerned about the fact that there are some things that will not work on a small area plan basis, like infrastructures, roads and transit, these are

things that have huge long planning and funding horizons and the Town is responsible for them. It seems that the Town needs a plan that doesn't only say start here but on that if the economy is great and funding is not a problem in the best case scenario it is how fast it would get built out, then the Town can see when they have to have water and sewer set up and the State can see when the roads have to be there. They need to plan, there is no fuel for that now and it is a shortcoming.

One of her biggest concerns right now (not that they would actually follow it) if everything is good as it possibly could be what would be the earliest the Town would have to come up with water, sewer and other things so that they could plan or in the most realistic time frame how many houses and by what year, etc. Looking at where we are right now Chatham Park was publicly buying land for a couple of years but when it came time to do a planned development the Town did not have any zoning in place and Chatham Park ended up writing the zoning and bringing it forward and it got passed and then the development got passed. The Town needs to be able to plan and it is so amorphous that it makes no sense.

Mr. Reaves said that this plan in any way affect the approval process for development within Chatham Park that require site plan approval which is virtually everything, so as they come back and go thru the Site Plan approval process the Town will control the timing and when water and sewer and other infrastructures have to be in place. How will the Town know when they will have to provide these things? The Town will know because it will determine when they will have to provide them.

Mr. Culpepper added that they are also responsible for making sure that the utilities are available and adequate just like any other development. They are under a moratorium and working with the Town to get pass that moratorium. There are discussions going on now with the Town on the best way to serve Chatham Park and much of the Town for sewer and water. They are addressing these issues, however, if the utilities and roads are not there they can't move forward.

Ms. Elfland asked if that is what they really wanted. That is her point, they can always have nothing and if they submit a Site Plan and they Town is prepared its fine but what about if the Town is not prepared? She believes that for the big long term things that need to be planned over many years and transcend into individual Site Plans it would be better to have Phasing Plan.

Mr. Culpepper again said that they do have and always have had a phasing plan. The additional verbiage is to make it clear that they have a phasing plan and the additional element is enhancing that phasing plan.

Mr. Elfland asked if this phasing plan is what is in page 40, not the one they have back in their offices that says the cost of each item. At this moment assuming this gets approved and this being a new agreement that will start two years from this approval means that the chances of the UDO being in place before their two years are up has just increased. Her question is, if the UDO is in place and the two years are up will they then submit a development phasing plans that meets

whatever the requirements are of the UDO that exists at that time? In other words, whatever detail the UDO says at that time will they comply with it?

Mr. Reaves and Mr. Culpepper both stated that they would have to comply. Except on the variations such as sets backs.

Ms. Elfland wanted to confirm that if there is a phasing plans there that requires a lot more detail that was they have been talking about here they will produce it.

Mr. Reaves said that it is in Item 4 on the bottom of page 47.

Ms. Elfland then said that her other concern, which is not a question but a comment to the other Board members, is about the whole water infrastructure/utilities, the potable water, reclaimed water, waste water, all the water, for two reasons. The first concern is the strategy, she understands why they want to phase infrastructures because it is expensive. However, she is also concerned that the strategy could end up being even more expensive or would not work. She is aware that they have built more water infrastructures and utilities infrastructures than she ever has but she is not naïve. Coincidentally she has previously used the same consultants for water and sewer has looked at those same innovative treatments technologies and has had sewer plant manufactures offer to build a plant for free if the operating cost was paid.

However, in the Town of Pittsboro five different sewer plants with five different technologies and five sets of managers, five sets of people running them different ways and as the EPA gets stricter about discharge limits there will be five different technologies that will have to be tweaked. What if they don't work and they are not interconnected? Scale is the name of the game in water utility. She just wants to make sure that this plan doesn't absolutely have to end up being implemented. She believes that when the Town looks at it and gets their own Engineers to work on them they may not want to do it. If they really want reclaimed water to work and make a big impact in this development it is not going to be watering lawns, they need the money for the Hospital which cools OR's in the middle of winter and always has reclaimed water demand. This means that they have to have all the reclaimed water interconnected to get to the Hospital, more important it has to be the same quality.

Mr. Culpepper said that a Planned Development District requires that you show how you could deal with sewer and water capacity, it shows how a fully functional system would work. However, at the request of the Town they have added a sentence saying "No system will be put in place if it is not agreed to by the Town". They had to propose a working system that met the standards that they wanted to see if they used the water, talking about dealing with drainage basins instead of pumping everything back to a central plant. There is tradeoffs with them but what they had to do is show the Town that there is a system even if the Town's system could not be extended at its current location. There is a system that they have proposed that will work, however, it can only be implemented if the Town agrees with it.

Ms. Elfland stated that her other issue is as they all know that Pittsboro needs water and waste water. Chatham Park is a great opportunity to do a collaborate effort and if they are building so much population putting it all together and getting everybody in the new plan that way Pittsboro can also resolve its problems, in the bigger issue taking a holistic look at the whole thing. This way Pittsboro can be in control to fix its water and sewer issues and also know when and where the new developments are coming and being able to budget and plan on a coordinate basis which is one of the reasons she is in favor of the phasing plan. She wants to make sure that this language gives Pittsboro control over the water and sewer and not only in the way of design and construct of these five plants that are planned. Does the language at the bottom of page 48 allow the Town of Pittsboro to refuse any system proposed by Chatham Park, and if Pittsboro will have 100% of control? She feels that the wording is not specific and asked the Town's Attorney about it. The wording states that "Facilities needs and service shall be design, constructed, operated and maintained in a manner satisfactory to the Town" it does not say that the Town can do it if they want to.

Mr. Messick stated that the Town can say it is not satisfactory to the way they want to propose to do it, and the Town can then propose their way to do it. If the Town does not want to buy into it then there won't be capacity for them or anybody else. It will require cooperation.

Ms. Elfland is aware that in the real world it will require cooperation, on these extremes of multiple plants and one monster plant if the Town wants one plant can they make it happen with this language?

Mr. Messick's reply was yes.

Mr. Reaves stated that the wording says "In a manner satisfactory to the Town" Yes, the Town can make it happen. Developments will have to be approved on a Site Plan by Site Plan basis therefore the Town will control the timing.

Ms. Elfland is worried that when that happens there is going to be pressure and all kind of rush. She believes that the Town does not want to continue with moratoriums, it is not to any one's benefit.

Mr. Culpepper said that if the capacity is not there they cannot do it.

Mr. Messick said that it is in their best interest to make sure that the capacity is available for them to be able to do what they would like to do. It is in the Town's interest to make sure that the capacity is available to satisfy them and anybody else that might be interested.

Mr. Reaves then added that the entire thing will be driven by economics and factors beyond anybody's control. Neither side wants millions of dollars of infrastructures if not supported by tax breaks.

Ms. Elfland just wants to make sure that the Town is in control of this piece because it is an important piece.

Mr. Culpepper said that they always wanted to be part of Pittsboro, they know that Pittsboro is in charge of its own destiny.

Mr. Bennett had one concern that was brought up in front of the Public Hearing on November 24 in reference to construction traffic. Several attendees were worried with the amount of construction traffic throughout the area and wanted to know how they would handle that.

Mr. Culpepper said that it is sometimes assumed that all construction will start at the same time. It will take time to make the utilities available for them to build, so there is limiting factor. They need to make sure that they are not over burning public roads with construction traffic. There will be construction traffic and it should stay on the main road and should be directed to avoid the local streets. All he can say is that they will keep it in the right place and out of the wrong places and do everything they can to make sure it is limited in the hours of operation and any impact to other traffic.

Mr. Plummer asked if they could address affordable housing.

Mr. Culpepper said that they will do an affordable housing plan. They are not in the business of building affordable housing. From a planners standpoint what is more important is affordable living, making sure it is a good place to live that is near your employment. Affordable housing may mean that the home is 40 miles away from your job. They will be working with people who do affordable housing and put affordable housing projects in Chatham Park.

Mr. Plummer asked if there could be any situations in the future that would bring anything to a public hearing and provide an opportunity for public input.

Mr. Bass stated that the way it is written each of the additional elements will have a public hearing as well as any amendment.

Mr. Culpepper also said that there are certain cases where if the use is identified as a special use and it is within 500 feet of a boundary, then there has to be a public hearing to discuss that transition and how that transition applies. What is odd to him is that you still have townhouses as special uses, so if you place a townhouse next to an industry it may generate a public hearing to figure out the transition between the townhouses and the existing industry.

Mr. Taylor asked about #11 on page 49 and why was that added?

Mr. Reaves said that what they attempted to say is what the law is. Rezoning runs with the land regardless of who the owner is.

Mr. Bland asked what occasions may there be or arise in which they have to consider another entire Master Plan and for what reasons might that be?

Mr. Culpepper replied that it would be if new land is bought or extract land from it.

Ms. Elfland asked why just not make an amendment?

Mr. Culpepper said that they believe that the development agreement can fine tune that procedure. They did include certain amendments that are allowable.

Ms. Elfland asked if there was a procedure in the zoning now that would allow you to amend a PDD for something. They just did one for Powel Place.

Mr. Reaves said that in the ordinance there are certain things that can be handled administratively and other things that require a new rezoning. An addition of property to the PDD is in the latter.

Ms. Elfland said that if this is the case could they make sure that the UDO changes that. It makes no sense if ten years down the road when part of it is built and they buy some more land they would have to do a whole new rezoning.

➤ **Mr. Bland asked for a Motion**

➤ **Mr. Bennett made Motion to adopt the following resolution resolve that the Town of Pittsboro Planning Board hereby advises and comments to the Board of Commissioners that the proposed rezoning is consistent with the Town of Pittsboro Comprehensive Plan including the Land Use Plan and other applicable plans and policies adapted by the Town of Pittsboro. The following reasons and other matters were considered in the deliberation of the Town of Pittsboro Planning Board with respect to this motion. The proposed rezoning is reasonable considering the size and location of the property subject to the proposed rezoning and the potential benefits to the economic, cultural and urban development of the Town of Pittsboro and surrounding community. The Chatham Park PDD Match Plan followed with the proposed rezoning provided quality design features and sensitivity to environmental issues and the proposed rezoning advances the public health, safety and welfare of the Town of Pittsboro.**

➤ **Mr. Plummer Seconded**

➤ **Vote: 4 Yes 1 No**

- **Mr. Taylor stated that the Pittsboro Planning Board hereby adopts the following Motion effective December 1, 2014.**

Motion A - Motion to adopt the following resolution result the Town of Pittsboro Planning Board recommends approval of the proposed rezoning following reasons and other matters to conclude with respect to this motion the proposed rezoning is reasonable considering the size and location of the property subject to proposed rezoning and the potential benefits to the economic, cultural and urban development Of the Town of Pittsboro and the surrounding community. Chatham Park PDD Master Plan filed for the proposed rezoning provides quality design features and sensitivity to environmental issues and the proposed rezoning advances the public health, safety and welfare of the Town of Pittsboro.

- **Mr. Plummer seconded. Mr. Bland asked for discussion**

Mr. Taylor stated that he is confident because the UDO is being rewritten. The entire guide lines will be restructured redone and approved.

Ms. Elfland stated that the fact that it is later and the UDO will be there and things will be controlled is much better. The context also needs to be considered.

- **Vote: Unanimously**

D. BOARD MEMBER CONCERNS

None

E. REPORTS AND ANNOUNCEMENTS

None

F. ADJOURNMENT

- **Chairman Bland asked for motion to adjourn.**
- **Mr. Taylor made motion to adjourn.**
- **Motion carried unanimously**

Planning Board meeting adjourned at 7:54pm

Next Planning Board Meeting is scheduled for Monday January 5, 2015

Aleana H. Platon

Administrative Support Specialist

