

**MINUTES  
TOWN OF PITTSBORO  
PLANNING BOARD MEETING  
Monday, December 3, 2012, 7:00 PM**

**ATTENDANCE**

**Members Present:** Kenneth Hoyle, David McConnaughey, John Clifford, Raeford Bland, Karl Shaffer, Shannon Plummer

**Members Absent:** Alfreda Alston, Robet Butler {Alternate}

**Staff Present:** Stuart Bass, Planning Director, Ileana Platon, Administrative Support Specialist, Brian Gruesbeck, Town Manager

**A. CALL TO ORDER**

Chairman Kenneth Hoyle called the meeting to order at 7:00 pm. He welcomed Mr. Brian Gruesbeck as the new Town Manager.

**B. APPROVAL OF MINUTES**

Since the minutes for September and November were delivered to the Board today Mr. Bland Suggested to table the minutes. Accepted by acclimation.

**C. OLD BUSINESS**

**None listed on the Agenda.**

**D. NEW BUSINESS**

**1. Chatham Park Investors LLC Request for Expansion of the Town of  
Pittsboro  
Extraterritorial Jurisdiction.**

Mr. Bass explained that their packets contained a letter dated August 13, 2012 from Chatham Park Investors LLC requesting the Town take action to extend their ETJ south to include an additional 1,900 acres of land. Legal authority of this action is discussed on a separate memo dated September 6, 2012 from the Town Attorney to the Mayor and Board of Commissioners. This is a legal process that has to be followed and has begun. The Town requested permission to

extend the ETJ (Extra Territorial Jurisdiction) and the County has granted the permission, now they are following the process to the next step. Mr. Culpepper will brief the Board and discuss what is coming up next.

**Mr. Hoyle** explained to the Board members that this is not new. Something similar to this took place some time ago on the west side of town where 64 By-Pass and 64 Business join. There were 92 acres on the left where a company out of Charlotte wanted to build a development but out of the 92 acres 13 acres were within the ETJ of the Town. An agreement was reached and the County took back territory from the Town's ETJ.

**Mr. Culpepper** stated that since the County has consented the Town of Pittsboro to extend their ETJ there are two steps that need to take place. The first step is for the County to notify Chatham Park in writing of their agreement. The second step is to schedule a Public Hearing which could be set as early as January. This means that the Commissioners can set up the Public Hearing date by their next meeting. In addition to the extension of the ETJ the property within the ETJ must be zoned. The main objective tonight is to get an idea from the Planning Board and the Town Planner on what that zoning should be.

**Mr. Hoyle** asked if the land being discussed is already zoned.

**Mr. Culpepper** explained that the vast majority of the land is not zoned. There is a piece of the corridor along the Moncure-Pittsboro road that the County zoned but it will be replaced with the new zoning being requested. He stated that this zoning will be temporary, once the district is in the Town's ordinance they will return to propose a new zoning. Currently most of the surrounding area is RA-2 and the area along the river is RA-5. A large portion of that land is Federal property and existing homes that they will be buffering up to. Mr. Bass will have to present the new zone, notify Chatham Property Land Investors, call for a Public Hearing, submit Board and Planning Board recommendations for the zoning and the final action would be approval from the Town Board on the zoning and extension of ETJ. Once all this is in place they will return and ask for a re-zoning on all the seven thousand acres.

**Mr. Plummer** asked what kind of zoning would be requested.

**Mr. Culpepper** explained that they will be presenting an entirely new zoning district for a planned development that allows mixed use based on a master plan. Their request is to approve a zoning district with a detailed plan for the entire seven thousand acres. In most places it is a PUD but the Town is already using the term PUD for small residential projects, included in this will be locations that have been zoned for medical office buildings. The main concern now is getting pass this ETJ. He described the process in steps: **Zoning – Public Hearing – Meetings- Resolutions.** He said that Mr. Bass would then make a recommendation of what should be rezoned. The main objective tonight is to get the Planning Board's input on what the first zoning would be. Since this is an initial zoning it acts differently than a rezone. To keep it simple they are suggesting an RA-2 zoning.

**Mr. Plummer** then asked if they would be opposed to an RA-5 zoning stating that it is simple as well.

**Mr. Culpepper** said that looking at the definition from both RA-2 and RA-5 seem to suggest this is fine in areas where it doesn't appear that sewer capacity would be place any time in the near future, but the RA-5 seems to suggest is even further out than RA-2. However we are suggesting that sewer capacity be place in the area rather quickly but whatever the board decides they are fine with it. He added that rezoning these areas is not contrary to the Land Use Plan. These are areas are that are meant to be have sewer capacity in fact the entire ETJ should have sewer capacity. Tonight he is here to answer questions and bring the Board up to date on where they are.

As per Mr. Hoyle's request Mr. Bass explained the different zonings and color codes on the map displayed.

**Mr. Culpepper** expressed his gratitude to Mr. Bass for his efforts. They had requested to do this expeditiously before Christmas, the county also acted much faster than they had anticipated. He also expected that Mr. Messick would be present tonight since he has been working with their Attorney in resolving some of the details. There is a question on a certain area of land that the borderline splits some properties, they are not exactly sure where the line is.

**Mr. Plummer** said that he has been here for 25 years and he thought it was common that it was unclear where the ETJ line was.

**Mr. Culpepper** explained that general status says that identifiable boundaries such as creeks and roads should be followed.

**Mr. Hoyle** provided and story of a situation when our previous Planning director erected a sign north of the Haw River announcing the Town of Pittsboro Planning Zone. This action created a lot of problems and residents on the other side of the river got quite upset and of course the sign could not be placed on the middle of the bridge. He then referred to the memo dated September 6, 2012 from Paul Messick and inquired about Article 19.

**Mr. Culpepper** responded that it is a general statue. He also mentioned that there were some issues as far as how much it was going to cost the Town to operate this ETJ since there are fees involved. He assured that Chatham Park Investors would pay all expenses incurred during this process including Mr. Messick's time.

**Mr. Hoyle** stated that the 1900 acres coming in do not involved anyone except a few adjacent property owners and **Mr. Culpepper** said it does not involved adjacent properties.

**Mr. Shaffer** asked if the two public hearing reflect the change of ETJ and the rezone.

**Mr. Culpepper** said only the initial zoning will require a public hearing. The rest of it is well beyond. This property has never been zoned and will now be zoned by the town. There will be no protest petitions that can be filed. This requires a public hearing it is not required to notify adjoining property owners and the ETJ notifications is only required to the properties within the

ETJ. It is temporary, when they return and request the second zoning then every property adjacent to the seven thousand acres will be notified.

**Mr. Shaffer** asked why the MUPD that the town currently has does not fit what their goals are. **Mr. Culpepper** said that two years ago he provided about eight pages explaining why it did not. Some of the points were that it was very restrictive what you have to submit. He mentioned that an economic analysis had to be done. They did one for the 72 acres on Eubanks Road at a cost of \$10,000.00 each and nobody read it, this analysis is useless in the process. There are many details about it, it requires you to do everything at one time and does not get around some of the issues of what needs to be on the planned unit development. Within the planned unit development the standards of the development need to be set, not to be the standard of the ordinance. **Mr. Hoyle** commented that MUPD is restricted in terms of number of acres and believes is 35 acres.

**Mr. Culpepper** agreed by stating that it is a minimum of 35 acres. He tried to make it work and could not find the way to make it work. They modeled what they are going to do after several other jurisdictions such as Greensboro, Cary and Apex.

**John Clifford** requested from Mr. Bass if possible to get a copy of the Article 19 that Mr. Hoyle mentioned earlier.

**Mr. Culpepper** explained that this is not something that the Board needs to rule on tonight, if there are issues they will come back to the Board.

**Mr. Hoyle** agrees with recommending RA-2 since the majority of the area is already zoned that way and since this zoning will be temporarily this is just an avenue of going from one zoning to the other.

**Mr. Shaffer** is in agreement to only one zoning but is somehow concerned about an RA-2. In the past the Board discussed a request to redo some RA-5 zoning and it was shut down and wonders if they do go RA-2 now will it open the door to send anything else that is in that current RA-5 zoning over to RA-2 what would the Board's argument be if they deny that.

**Mr. Plummer** agreed and said that this was an excellent point.

Then **Mr. Hoyle** stated that in order to preempt anything like that they would zone it RA-5 and it would stop any request. **Mr. Culpepper** explained that there is nothing in the ordinance that states why some of it is zoned RA-5 and the other RA-2 to which **Mr. Hoyle** replied that he would not find it in the archives either.

**Mr. Plummer** expressed that he has full faith in the project and is excited on what is coming but he has heard many times over the years that the town can do something in the hope the other party will do something else, the fact is that things change. **Mr. Culpepper** said they are not asking for the Board to do anything based on promises they cannot take to the bank.

**Mr. Hoyle** then asked Mr. Plummer if he would be in agreement recommending RA-5 zoning. **Mr. Plummer** said not necessarily for all of it then other members of the board explained that it would be a general zoning now with the knowledge that it would be changed again in the future. **Mr. Culpepper** said that truthfully at this point everything outside a section by the river should be RA-5 and the reality is because of the soil around there it is treated as RA-5.

**Mr. Bland** said to his recollection the issue of RA-2 and RA-5 had to do with the conservation area right along the river. That was an issue that if it would have been changed it would have limited the whole river corridor from low density to essentially a very high density that is where they would have opened a can of worms and would have been inappropriate.

**Mr. Culpepper** suggested they give it some time and thought. He and Mr. Bass can take direction from the Board and work out a line and recommendation then it will still come back to the Board for approval.

**Mr. Shaffer** asked Mr. Bass if down the road when they return with a PDD what would the Town's control be for impervious area, would it be written into the new zoning district or will it default to the watershed ordinance.

**Mr. Culpepper** responded that they have not yet presented the ordinance amendment to Mr. Bass. There are lots of regulations that cannot be amended. They would never suggest reducing a buffer that is a State mandate law. Watershed regulations overlay zones, many of the regulations will be just as they are if not upgraded. One of the things that they see critical and must be done is quality, they will have a project that is highly dependent on preserving water quality. The Board agreed and requested that Mr. Culpepper and Mr. Bass come up with something that makes common sense, logical and consistent.

**Mr. Bland** then brought up the issue of the expenses that are listed such as subdivisions, telecommunication towers, watershed flood plan, etc. Is the builder going cover the cost? He also asked that once the area is annexed will it generate tax revenues and how much would that be?

**Mr. Culpepper** replied that whatever they apply for they will cover the cost. In regards to the revenue it depends on what is placed on it. They are working with the Tax Assessor's Office and kind of phasing this in. Currently the tax bill on these vacant properties is in excess of \$700,000.00 a year this is for the 7,000 acres but they have annexed 32,000 acres which is in the Town's tax district with more to come soon. The only thing that will be going up is revenues.

**Mr. Shaffer** asked what kind of possible negative situations does the Town incur by moving forward with the extension of the ETJ. **Mr. Bass** responded that relatively speaking it is a huge area of ETJ and policing the 32,000 square acres at this time is unlikely but since it is under a single ownership it may not be an issue. ETJ theoretical is an extra territorial planning area to provide urban services in the future.

**Mr. Culpepper** added that from his past experiences an ETJ should be an area that you see some logical step where it becomes part of the town down the road. They will come with urban service plans and the biggest thing this does is allows all 7,000 acres to be zoned by one jurisdiction, if not you will have two separate jurisdictions this means two separate rule books, a line that we don't know where it is and how to apply and two separate approvals for the same thing.

**Mr. Bland** asked if all these 7,000 acres will be within the town's limit sometime in the future.

**Mr. Culpepper** said yes they would. Because of the limited availability of sewer there is a lot of work that needs to be done to make it happen. They are currently coming up with plans to get everything done and they have the ability to do it. They are more likely to be part of the town before other portions of the ETJ do. Although there are smaller water treatments facilities available which they may have to use temporarily their goal is to have the town be the entity that controls the water and sewer system for the entire project. This will generate revenue for the Town.

At this time **Mr. Hoyle** asked Mr. Bass if he needed anything else from the Board or if he had enough to proceed. Mr. Bass responded that he could proceed.

**Mr. Bland** asked the members of the board if they would be leaning towards one or two zonings since he and Mr. Hoyle agree with an RA-2 zoning but feel some hesitance from the other members.

**Mr. Shaffer** explained that he is more comfortable with two zones instead of a flat RA-2. He understood that Mr. Bass and Mr. Culpepper would try to kind of curve a line into place and make it a RA-5 and RA-2 split.

**Mr. Hoyle** agreed and added that if it is consistent and would not create difficulties down the road, this would be the best way to go. **Mr. Culpepper** said they would be comfortable with a logical pattern of RA-2 an RA-5 consistent, but he would need to review and figure out what the old line was based on and see what the new line would be.

**Mr. Hoyle** explained that this is just a temporary issue and requested a motion based on the following:

Agree to RA-2 zoning

Agree to RA-5 zoning

Agree to allow Mr. Bass and Mr. Culpepper to get together and figure a more consistent plan which they will bring back to the Planning Board

**Motion made by Mr. Bland to allow Mr. Bass and Mr. Culpepper to work together and bring back a more consistent plan.**

**Seconded by Mr. Clifford**

**Vote: 6-0**

## **E. BOARD MEMBER CONCERNS**

**Mr. Hoyle** explained that some time ago they had asked Mr. Plummer to represent the Planning Board in regards to the Main Street Project. For different reason Mr. Plummer has had to resign. He nominated John Clifford for the position. Mr. Shaffer seconded.

Vote: 6-0

**Mr. Hoyle** questioned why the minutes were not submitted to the board on time and wanted to know why and asked if possible that the agenda and packets be delivered to the Board members at least five days prior to the meetings. He also requested a copy if the Land Use Plan for each Planning Board Member. In addition he mentioned that one of the details calls for a comprehensive review of the ordinances. He said that he received a call from one of the Commissioners who was rather emphatic that the Planning Board had been given the direction to review the ordinances and they expect this to be done. The Chairman and Vice Chairman will then have to report back to the commissioners so the Board needs to come back and readdress this. This brings up another thing, how does the Board approach it? They all know that there are some errors and inconsistencies and this needs to be addressed in January's meeting because they will have to report back to the Commissioners within six months.

**Mr. Bass** explained that there have been some health issues with family members of Town employees and in addition to other work assigned to those employees. Hopefully these issues will be resolved in the New Year and will strive to get the agenda and packets to the Board by at least the Wednesday prior to the meeting. He has just received the Land Use Plan and will distribute them shortly. He mentioned that the Town Board had a Public hearing on the Conditional Zoning Text Amendment last week and they had some revision.

**Mr. Hoyle** again brought up the fracking issue. He explained that when fracking was presented to them back in September a definition and some other information was presented to them. The Commissioners have given the Planning board the task to come up with some rules and regulations just in case fracking does come about. The Board had tabled it primarily because the Town had already pointed out that the State had prohibited fracking in North Carolina. Nevertheless the Commissioners still want the Planning Board to look into the matter saying that we do not want to be caught behind in regards to this. It is something that we should come back and re address rather than keeping it tabled.

**Mr. Plummer** asked if the Commissioners had also agreed to table the issue based on the Boards recommendation.

**Mr. Bass** said that the Commissioners had put the issue on hold for the time being, that the State had compelled a study commission to draft language and rules for potential regulations, and this effort was currently in process.

**Mr. Hoyle** said that he received a call today from one of the Commissioners requesting that the Board comes back and readdress it.

**Mr. Plummer** finds it difficult to address something that is not even legal and does not know where to begin. How can they address an issue that has no laws regulating it?

**Mr. Hoyle** explained that what the Commissioners are asking for is some brainstorming just in case fracking is allowed.

**Mr. McConnaughey** said that he would try to provide the Board with some information.

#### **F. REPORTS AND ANNOUNCEMENTS**

**Next meeting is scheduled for Monday, January 7, 2012 at 7:00pm**

#### **G. ADJOURNMENT**

**Mr. Bland made motion to adjourn, seconded by Mr. Clifford, all in favor. Meeting adjourned at 8:15p.m.**