

**MINUTES  
TOWN OF PITTSBORO  
PLANNING BOARD MEETING  
Monday, August 6, 2012, 7:00 PM**

**ATTENDANCE**

**Members Present:** Kenneth Hoyle, John Clifford, Karl Shaffer, Alfreda Alston, Rob Butler, alternate, Bob McConaughy, alternate.

**Members Absent:** Shannon Plummer, Raeford Bland.

**Staff Present:** Stuart Bass, Planning Director, Ileana Platon, Administrative Support Specialist

**A. CALL TO ORDER**

Chairman Kenneth Hoyle called the meeting to order at 7:00 pm.

**B. APPROVAL OF MINUTES**

**Ms. Alston made motion to approve the minutes of June 4, 2012. Mr. Clifford seconded. Approved unanimously.**

**C. OLD BUSINESS**

**1. Ordinance Review**

**a. Traffic Impact Analysis**

**b. Public Hearing Requirements**

**Mr. Bass** presented a couple of items for possible text revisions. It has been suggested that the Planning Board looks into codifying a traffic impact analysis requirement. This would probably be some type of text amendment in the site plan section. However, he did not have any text reactive today but wanted to introduce the topic tonight and welcomes anyone who has any experience or would like to add their suggestions to the discussion. **Mr. Bass** also stated that Phillip Culpepper may want to contribute his opinions since there was some traffic impact analysis required when the master plan new developments came in. To his knowledge that has been the only time there has ever been any real submittal. The idea would be to have some sort of standard.

**Mr. Hoyle** agreed and said that there is a need to come up with something in terms of the Traffic Impact Analysis. There are traffic impact studies from Powell Place, John Glare on old 64, Ricky Spoons and The Haw Christian Academy School which has now moved away and they are all basically the same. It bothers him that there is no criteria set up.

**Phillip Culpepper**, Consulting Planner with AICP addressed the board and said that the ordinance now calls for a Traffic Study, it does not specifically refer to a Traffic Impact Analysis in the classic sense of what an Engineer does, remembering one done on Eubanks Road. The most difficult part there was getting the engineers to do almost a full Traffic Impact Analysis when it did not call for that. It was almost three quarters of what he was normally required to do for a full Traffic Impact Analysis. At this time the requirement says to just do one, instead on others jobs, and he used one in Durham as an example, where it is required to do a Traffic Impact Analysis only if the project will generate X number of trips per day. The two steps for doing a Traffic Impact Analysis is having a meeting that establishes the parameters for the analysis (how many intersections will be taken into consideration). Once returned it is evaluated. Many jurisdictions have separate traffic engineers that will take the Traffic Impact Analysis and review it for the sake of the town and then write the report. Typically the burden of payment for these analysis should not be placed on the town, cost should be charged to the applicant. Some towns even have a list of who they allow to do their Traffic Impact Analysis and applicants must select from the list. It is a must have study under the ordinance for the town.

**Mr. McConaughy** asked is this was a full analysis or a departmental analysis. The reply was a full analysis of the traffic flow.

**Mr. Shaffer** asked if it was something that the planning board was qualified to do. In past situations like the Haw River Christian school they presented the traffic flow for the location to the board but when it came to the street and town traffic it was given to the Police Department for which they responded all was well. He does not have any concept on how to review one and feels he does not have professional knowledge to assess one, he asked if anyone had the ability to review the engineering documents.

**Mr. Bass** said no and that the town should follow Mr. Culpepper suggestion and contract the expertise of a third party.

**Mr. Shaffer:** So if an applicant has a design that they paid for, in addition they must also pay for a third party independent review. The response was yes.

**Mr. Culpepper** added that it is customary to hire a third party unless the town has a Traffic Engineer on staff which does the Analysis for the sake of the town but an applicant pays for it. The one for the school was mainly done for the parking lot. Traffic analysis usually looks at the intersections, looks at the amount of traffic heaping that intersection and tells you that the level of functionality on that intersection goes from A to F” (its great or it’s a gridlock) and the traffic times

What is being asked is to do a traffic study. There is a pretty standard guide lines on what a Traffic Impact Analysis is. It is an Engineering report.

**Mr. Hoyle** asked Stuart if the consultants that work with DOT in terms of the freeway could give an input on this, in which Mr. Bass responded yes. Mr. Hoyle agreed that is necessary they are in favor of it and when presented the board will review it.

**Mr. Bass** said that tonight he was just bringing the topic to the board but he will have some text next month. In the meantime if anyone has any comments of suggestions please let him know. It looks like it’s been an issue in the past putting projects together, it gets done but nobody reviews them there are boxes full of documents

**Mr. Culpepper** explained that once the Analysis is done then DOT will review it and decided on the road improvements necessary to litigate the impact of the town’s traffic.

The next topic was the Public Hearing Requirements. Mr. Bass is questioning the process and did not know if there was any history there. Currently the ordinance reads that for special use permits there is a public hearing and then it is referred to the planning board. For rezoning and text amendments it first goes to the planning board then to a public hearing. He wants to know why it is done this way and if everyone is satisfied with the existing procedure.

**Mr. Hoyle** said the procedure used to be the same but it changed. The planning board would not get the materials until the Public Hearing was done. The planning board would also get copies of the Public Hearing documents. After reviewing the information it would be sent to the Commissioners. It was changed a couple of years ago and the board has no idea on exactly when or why. The current process is it comes to the Planning Board which forwards it to the Commissioners, then a Public Hearing and they make the decision, which puts the responsibility on them because they are just hearing what the public is saying with no idea on what the Planning Board has expressed. He also suggested in terms of the Public Hearing if there is any way possible it can be listed in the same place on the newspaper rather than trying to find it.

**Ms. Alston** agreed with Mr. Hoyle by stating that the public hearing came first, the board was able to see all the comments, suggestions and oppositions on the topic, but on the last few years it was changed and the Board no longer knows the view of the people.

**Mr. Culpepper** stated that it was David Monroe that changed the procedure, trying to remember there were some cases that they had the Public Hearing then it went to the Planning Board and they ended up bouncing stuff back. I was a way to give the people more opportunity to get involved and have input. One suggestion is to leave it open and let it come to the planning board and back to the Public Hearing. People were bothered that once the Public Hearing was closed and there was all this activity in the Planning Board meetings they did not have a chance to speak. He does not understand why they have to close it instead of just leaving it open allowing it to come to the Planning Board and then back to the Public Hearing and obtain more input.

**Mr. Hoyle** said they are not saying to have the Public Hearing before the Planning Board they want the Public Hearing before it goes to the Commissioners.

**Mr. Bass** stated that in many places they have the Public Hearing with the Planning Board, it is not required by law but it is done. Some have joint Public Hearings. He was just curious why one was done one way and the other a different way. He was not aware there were feelings about it and will delve into it and see what changed but it seems that having the Planning Board hear the Public Hearing comments would be beneficial.

**Mr. Hoyle** wondered if they can list the Public Hearings announcements on the water bill invoices.

## 2. Land Use Plan

**Mr. Hoyle** continued to the Land Use Plan which was distributed to the Board members about 3 weeks ago. What he would like to do tonight is discuss the pros and cons from the Board's standpoint then at the next meeting come back with a recommendation to the Commissioners. There is a lot of information that has been a long time coming.

**Mr. Bass** claimed there was a public hearing at the last Town meeting and there was some testimony all favorable. He explained that he went back to Triangle J Council of Government and meet with the Planning Director, John Hutchins Cople and Staff Planner Matthew Day. We took the original draft and massaged it and kept the issues that were identified during the initial meetings and workshops, basically got it formatted into the way it is today. We made sure the issues people identified stood out.

**Ms. Alston** stated that they did a good job putting it all together she does not know what else they can do to it. If they can make it easier to read, she felt it was hard to read at one point. Otherwise it made a difference it is better and it has come a long way from what it was. She believes it can be acceptable and is something they can work with.

**Mr. Shaffer** agreed with Ms. Alston he stated that when they received a draft somewhere in the spring or late winter they identified 3 or 4 generic deficiencies and feels that those loops were closed well. After he read this new version he did not feel disappointed, perfect no, but there will never be anything perfect. It is good and comprehensive document. The photos are something he could care less but the maps are really cohesive, perfect size, meaningful and well labeled.

**Mr. Bass** agreed and stated that Paul Horne was responsible for the maps and did an outstanding job.

**Mr. Clifford** added that the maps relate this time.

**Mr. McConaughy** stated that each section was both coherent and self contained and it flowed into the following section. The only criticism he had was on the contexts. On things that are really hard to do anyway like population projection. It is an obligation to try to do it but it's nearly impossible and it was not done.

**Mr. Bass** agreed that it was difficult because plenty of the analysis was done several years ago.

**Mr. Clifford** stated that the new Land Use Plan document has come a long way, the maps are outstanding and it has just come together. It is readable and friendly. It may need some changes but this version allows changes.

**Mr. Butler** being new to the Board did not make any comments but did agree that it was a well composed document.

**Mr. Hoyle** does not want to be the negative one and had a few things to say. The Planning Board would appreciate and analysis and evaluation of this from Mr. Terry. The reason he states this is because Mr. Terry selected the document the Planning Board did and dissected and spitted it out even without going to the Commissioners. He believes Mr. Terry owes the Planning Board and evaluation of the recent Land Use Plan just from application and out of respect. Secondly on page 84 he is opposed to see photographs unrelated to Pittsboro. He is unable to identify any of the 3 buildings on these photos.

**Mr. Shaffer** agreed that they are not from Pittsboro and said some of those he felt they were concept Photos "this is what could be instead of what we have"

**Mr. Bass** confirmed that some of the photos were examples.

**Mr. Hoyle** said it was satisfactory as long as it is stated that they are examples and can be easily changed, maybe commented in fine print. He continued to the section on the Police Department, it states the number of officers currently on the force but no mention if we have enough or if we may need more in the future based on the population projection. The number of pages committed to the population projection is also a concern, it does not make any sense and is unable to understand why it is there. He then asked if additions can be done to the document without starting from the beginning and if it should be stated somewhere for the general public to read.

**Mr. Bass** replied that yes it can always be amended. It is a common practice and procedure to amend the plan.

Several Members of the Board stated that they had seen that quote and mentioned it.

**Mr. Hoyle** suggested that they go back and re read it and be prepared to make so form of motion to the Governing Board.

**Mr. Shaffer** requested that an e-mail be sent out to the members that were absent advising them of the decision since they will not see the minutes a week prior to the next meeting.

## **D. NEW BUSINESS**

### **1. Proposed Text Amendment- Conditional Zoning**

**Mr. Bass** said he found some more descriptions that are more easily digestible. He started a power point presentation and said the town board gave him instructions to review the material. He pointed to a specific sheet and said that he obtained it from the County website. The County has been looking at this for five years and adopted it this past July. **What is conditional zoning?** It is similar to conditional use zoning but it is legislative, you go thru the same process that is done for rezoning. You don't have to use the Quasi Judicial method of finding of fact. It is initiated by the property owner not the local government. Looking at the regular normal zoning map you can never apply this. A locality would not do it on its own they would wait for a proposal, it is usually ties to an existing district the way the ordinance was set up. It was available to local governments as of January 2006. This is when the state legislature changed the put this into law. Prior to that is when the City of Charlotte had been practicing this and doing over time And a couple of law suits got upheld and gained enough traction where the legislation changed the rules. What it does is it provides for sites for specific developments standards, in other words it is sort of the conditional use district rezoning without the special use permit, so when the rezoning comes in it usually accompanied by a site plan and the entire thing gets reviewed. It was designed to get rid of the Quasi Judicial process because no one liked it and it was very complicated with conditional use district zoning because you have two different processes going forward at the same time. It can't be done unless the code provides for it so it requires a text amendment.

**Mr. Hoyle** questioned the phrase "Usually tied to an existing district".

**Mr. Bass** explained that you set it up for all districts that you want to do it in.

Mr. Shaffer asked if Mr. Bass had done this in other states.

Mr. Bass replied that no he has not, this is brand new to him it is particular to North Carolina. Virginia has a system that they call proper's, it is similar but not entirely and nothing alike in Maryland.

**Mr. Culpepper** informed the Board that he has done it in the jurisdictions of Apex, Wake County and Morrisville and it a whole lot easier than what it seems on the slides.

**Mr. Shaffer** then asked if the code is generically changed like for example there is a conditional for R12 and then we do the specifics at the time we get the site plan application or are all the specifics in the code up front.

**Mr. Bass** said no they come at the time of the site plan so the Board is open for any request.

**Mr. Hoyle** said this could be a way for the Town and the Consumer to get what they want? The Town can negotiate back and forth thru the conditional and request exactly what they want but also work it out with the developer.

**Mr. Shaffer** asked that if it was already in the zone usage then why does it have to be re zoned.

**Mr. Bass** explained that both parties have to agree. The local government can not impose a condition to the applicant if the applicant does not agree. This will alleviate the concerns about what will get build. Typically when the rezoning comes in the first question is what is being done. In a legislative rezoning they can say what they are going to do but the fact is they can do anything that is permitted in that zoning district. Then there are some disadvantages. Each zoning amendment becomes its own separate independent district because there are these specific conditions that apply to that rezoning and that rezoning only. The locality has to keep up with all this stuff, locality meaning the Planning Board. Every individual rezoning done under this process becomes its own unique zoning district.

**Mr. Culpepper** added that it could be one hundred parcels all the same conditions.

**Mr. McConaughey** asked if this could be a way to beckon mix use zoning.

**Mr. Bass** replied that it could but not necessarily. The only uses you can do is what is allowed.

Because of the negotiations that goes on you open up possibilities for the proverbial back room deal because you limit the requirements for public hearing. It can also be costly to the applicant when trying to prepare everything for all the conditions involved if the local government or public get condition happy and ask for too many things which may not be fair or reasonable. Finally, since every district is unique by definition what is being done is a spot zoning. In summary is a detail site specific conditions that is associated with the zoning. It is purely Legislative. The standards and conditions are included on the site plan and it has become very popular in the state.

**Mr. Shaffer** asked if there were any small towns currently exercising it where they could get some input.

**Mr. Bass** said that in the last handout he distributed it mentioned a little bit about that because they have done a survey but it is getting more popular.

**Mr. Hoyle** said that this could be applicable to any amount of acreage.

**Mr. Shaffer** requested that the slide show be sent to the Board members for further analysis.

**Mr. Bass** stated that the biggest disadvantage he sees for a small town like Pittsboro is keeping up with it. He remembers when he first started he found multiple zoning amendments he founds that were not on the map and this does require a serious level of record keeping so in the future we can go back and find what these conditions are that apply.

**Mr. Shaffer** addressed the process by stating that once the applicant gets approval from the Planning Board and the Town Board what are the consequence's if six month later what the plan allowed has not been built.

**Mr. Bass** said there is an inspection process. The consequences are that there has to be a stets. Something like that is usually done with the County Inspections Office threatening to cut their water off as an example.

**Mr. Bass** concluded by saying that is all he had tonight. He just got his orders on this last week he will be bringing the Board some text but does not foresee this being a quick thing, it will take him some time to come up with something that will be acceptable to the Board.

**Mr. Shaffer** asked if this would be as simple as saying yes we have this concept and yes we will allow it?

**Mr. Culpepper** added that when Eubank's road was done and David Monroe was doing this Legislative conditional zoning even though the ordinance did not allow it and in fact that was the way the project was done, north of 64 there were two parcels that were adjacent to some residential parcels and the neighbors said that they would really like the town not to do anything except but office buildings. Therefore a condition was written stating that those particular parcels are limited a very small list of uses and even mentioned that it could not be more than a two story building. So as Mr. Bass pointed out in his presentation it allows that fine tuning when dealing with the next door neighbor. Even with a conditional use permit there has to be reason for those conditions. It is more difficult and there is a record keeping issue with conditional use, inspection use permits. Everybody government body he has worked with has fund that conditional zoning was a benefit where they could take in citizen input and apply it to the project. If you don't like it you can deny the rezoning.

**Mr. Hoyle** said he sees it as a much easier way for the Municipality to get what they want and also the consumer. He asked that they keep the information coming to the board.

## **E. BOARD MEMBER CONCERNS**

There were no concerns.

## **F. REPORTS AND ANNOUNCEMENTS**

**Mr. Bass** said they submitted the storm water program for the Jordan Lake Rules. The Town made their obligation to the State. Originally they were going to review it in September but they pushed it back to November, they seem to be changing their schedule. At some point in the not too distant future all those Rules and program will become effective.

**Mr. Shaffer** said that he saw in the newspaper that the rule was postponed for a couple years, how is it going to affect the Town.

**Mr. Bass** answered that's what he was not sure, but the town did what was required.

**Mr. Culpepper** wanted to mention to the Board about an item he brought to the Commissioners and showed a map and pointed to a colored area representing the seven thousand acres for Chatham Park. He addressed to a striped part which is outside the Town's territorial jurisdiction. There is a process which allows the county to grant the Town more extra territorial jurisdiction. He mentioned to Charlie Horne and he immediately spoke with the Chairman of the County Commissioners. It seems they are agreeable. They just don't want split zoning and have the property in two different zones. They will make a formal request to the Town in the near future that they ask the County Commissioners to extend their ETJ to pick up only parts of the property owned by them. The vast majority of the property is un zoned, there is a corridor zoning along Pittsboro-Moncure road. They will have to work with Mr. Bass to not only come up with the ETJ but applicable zoning classification. He just wanted to make the Board aware of it. On the 20<sup>th</sup> of August he will be doing an update with the County Commissioners about the project and the item may come up and be covered by the press.

Mr. Hoyle asked Mr. Culpepper if he could tell the rest of the Board in regards to the old trailer park.

Mr. Culpepper responded that they have made an offer on the portion of the property that is across the street from the High School. There is a lot of environmental issues that they have concerns about.

Mobile homes tend to have asbestos and there was an old gas station there. They have also made an offer on a property that Ricky Spoons tried to rezone.

**Mr. Hoyle reminded the Board that the first Monday in September falls on a Holiday. It was agreed that the next Planning Board Meeting will be scheduled for Tuesday September 4, 2012 at 7:00 pm.**

**Mr. Hoyle asked for motion to adjourn.**

**Motion made by Ms. Alston, seconded by Mr. Butler.**

**Meeting adjourned at 8:52pm.**

