

MINUTES FOR THE FRANKLIN COUNTY PLANNING BOARD

NOVEMBER 13, 2007

The Franklin County Planning Board held its regular monthly meeting on Tuesday, November 13, 2007 in the Franklin County Administration Building, 113 Market Street, Louisburg, North Carolina.

PRESENT: Willie Bartholomew, Melvin Cheaves, William Holden, Richard Hoyle, Ricky May, Mark McArn, Ronnie Pearce, Robert VanGraafeiland and William Wallace.

ABSENT: Philip Bues, Fannie Brown, Phillip Jeffreys, Mark McArn, Henry Nelms and Mary Solomon.

STAFF: Tammy Davis, Scott Hammerbacher, Jason Rogers, Max Rogers and Patrick Young.

Chairman Henry Nelms was absent so it was decided that Vice-Chairman Willie Bartholomew would run the meeting. Vice Chairman Bartholomew called the meeting to order at 7:00 P.M., and welcomed everyone in attendance. William Wallace gave the invocation.

William Holden made a motion, seconded by Ricky May to approve the agenda as presented. The motion passed unanimously.

William Wallace made a motion, seconded by Ricky May to approve the minutes from the October 16, 2007 meeting as presented. The motion passed unanimously.

Agenda Items:

- #1. UDO Text Amendment: Chapter Three – Subdivision Ordinance, Article 29, Section 29-7: Utilities

Scott Hammerbacher stated the Board of Commissioners recently approved an UDO amendment that suspended the mandatory connection requirements until a Capital Improvement Plan for water and sewer improvements could be prepared in conjunction with the Comprehensive Development Plan. He stated currently the UDO ordinance stipulates that the allocation of water and sewer in the interim would be left to the discretion of the Board of Commissioners. He stated the proposed amendment includes regulations which will provide guidance to the development community and the Board of Commissioners while considering water and sewer allocation requests. He stated the submitted amendments include regulations for the transferability of utility allocation and established policies for obtaining monetary deposits for allocation in addition to creating guidelines for the utilization of County water and sewer services. He stated the proposed regulations create submission guidelines for requesting utility allocation while establishing policies and disclaimers for the allocation of utility services. Mr. Hammerbacher gave a summary of the proposed amendments.

Mark McArn expressed he feels the county is moving away from the area where developers wouldn't be uncertain about developing in Franklin County. He stated he feels that developers would have to spend a lot of money and have no guarantee that they would receive the allocation for water and sewer. Pat Young stated what this proposed would do is if we have developers who wish to move ahead aggressively with the project, then they can be assured that the allocation is available. Vice-Chairman Bartholomew questioned what happens if a developer decides to change their submitted plan. Mr.

Young stated they certainly could change their plan which would forfeit their allocation and have to be resubmitted. Ricky May questioned if there is more water available from Henderson to be purchased. Mr. Young stated the County is currently working with Henderson to see if that is an option. Mr. Young stated there are 4500 lots available with water and/or sewer just sitting there ready to have permits pulled on them. Scott Hammerbacher emphasized there are several projects that are 1-3 years old just sitting with no construction happening and they have water/sewer tied up that could be available to other projects.

Ricky May questioned how the Economic Development Director can bring in new industries into a county that has water issues. Mr. Young stated that the County ensures that water/sewer is available in the critical areas (example: US Hwy 1 Corridor) so that industries can develop and/or expand in Franklin County. Mr. Young stated the County is coming up with a way to use current resources wisely that will be cost effective for everyone. William Wallace questioned if the County could free up some of the allocation that is being tied up by projects that are dormant. Mr. Young stated the County is looking at the legal aspects of the allocation requirements.

Jim Brinkley (Mill Ridge Company) stated he has met with staff to review this proposed amendment. He stated he agrees there is an allocation problem. He stated he feels #7 of the amendment needs to have some clarification. He stated a developer has so much at risk that he feels there does need to be a guarantee that the resources will be there. He stated he is concerned with the wording of #5. He stated his main concern is trying to find a way to avoid any large development losing its allocation. He stated he can't see how a developer can give a timeframe because they don't have any way of knowing how the market will be after a particular phase is completed and they are ready to move on to the next phase. Pat Young stated as far as #7 goes there can be a contractual schedule that both parties can agree on so that developers aren't driving the County's Capital Improvement schedule since we have accountability to the County's taxpayers to manage those costs.

Joel Lyles (Mill Ridge Co) stated he interprets the amendment differently than how Mr. Young explained it based on the wording of amendment. Scott Hammerbacher stated #5 clearly states that changes in the phasing plan would require an approval by the Board of Commissioners. He stated just because a developer applies doesn't guarantee they will get the allocation. He stated the County doesn't have to provide water.

William Wallace made a motion, seconded by Robert VanGraffeland to recommend approval of the proposed text amendment. The motion passed unanimously.

#2. Subdivision Request: Woodford South, Preliminary Plat, Dunn Township, Hagwood Road (State Road 1750), R-40 District, 33 Lots.

Scott Hammerbacher stated the preliminary plan is for the subdivision of an approximately 44.91 acre tract into 33 residential lots. He stated the average lot size is 1.20 acres. He stated the subdivision would be served by a community water system and individual septic systems. He stated the plan indicates that several lots within the subdivision contain large amounts of unsuitable soils for septic systems. He stated a note on the plan indicates that lots will be recombined or eliminated if adequate soils are not provided for during construction. He stated the project would be subject to the recently adopted Adequate Public School Ordinance and a Certificate of Adequate Public Schools will be required

prior to securing building permits. He stated staff recommends the following conditions be placed on the proposed subdivision if the Board issues its approval:

- All road designs and entrances must meet NCDOT standards.
- All other standard conditions of subdivision approval as listed in the Franklin County UDO.
- Payment in lieu of land dedication shall be required unless the provisions of Article 31 of the UDO are satisfied.
- Lot 34 is shown as a 28,450 square foot lot total. This lot does not meet the minimum 40,000 square feet requirement, and will need to be considered as open space unless the provisions of Article 31 are met for a recreation site.
- A Certificate of Adequate Public Schools shall be secured prior to the issuance of building permits.
- Prior to final plat, the following items shall be submitted:
 - a. Landscape Plan
 - b. Recorded covenants
 - c. Payment in lieu of land dedication
 - d. Street lighting plan

Ronnie Pearce made a motion, seconded by William Holden to approve the subdivision request. The motion passed by majority vote with William Wallace voting against the motion.

#3. Subdivision Request Extension: Berkeley Hills, Preliminary Plat, Youngsville Township, Mays Crossroads Road (State Road 1105), R-15 District, 165 Lots.

Scott Hammerbacher stated the preliminary plan was approved on January 10, 2006 for a period of two years. He stated the preliminary plan is for the subdivision of an approximately 83.99 acre tract into 165 residential lots. He stated the current developer (Millridge Companies) is requesting an extension of the previously approved preliminary plan for 12 months. He stated the following permits have been obtained for the development:

- NC DOT subdivision approval
- NC DOT driveway permit
- NC DOT right-of-way encroachment
- NCDENRDLR Land Disturbing permit
- NCDENR/DWQ Stormwater Discharge permit
- NCDENR/DWQ Wastewater Collection System Extension permit
- NCDENR/DEH Water Main Extension permit
- Appian Engineering/Franklin County Stormwater Management approval.

Mr. Hammerbacher stated the development would be subject to the recently adopted Adequate Public Schools Ordinance and a Certificate of Adequate Public Schools would be required prior to securing building permits. He stated the development is designed to be served by public water and sewer infrastructure. He stated staff is recommending that the development be approved conditional upon the formal allocation of utilities by the Board of Commissioners. He stated staff would recommend that should the Board of Commissioners grant allocation of utilities to the proposed development that a deposit for utilities is made and that milestones for the completion of the development be established. He stated staff is recommending the following conditions of approval if the Board decides to approve the request for the extension:

- Allocation of water and sewer shall be approved by the Franklin County Board of Commissioners within 60 days of Planning Board action.
- All utility plans will be approved by the Public Utilities Department prior to construction.
- All road designs and entrance must meet NCDOT standards.
- All other standard conditions of subdivision approval as listed in the UDO.
- Payment in lieu of land dedication shall be required unless the provisions of Article 31 of the UDO are satisfied.
- A Certificate of Adequate Public Schools shall be secured prior to the issuance of building permits.
- The original preliminary plan was approved with the following previous conditions:
 - Per the NC Department of Transportation, a driveway permit will only be issued for Phase I at final. Phase II may require turn lanes on Mays Crossroads Road.

Mark McArn stated he has a problem with developers having to go back before the Commissioners. Jim Brinkley (Developer) presented salient points of consideration to the Board. It included the following points:

- Berkeley Hills was approved on January 10, 2006. Pursuant to the UDO, the first final plat is to be submitted within 24 months, or January 10, 2008.
- The developer is requesting a 12 month extension to submit the first plat of Berkeley Hills pursuant to Section 28-4, (B) (7) of the UDO.
- The request would extend until January 10, 2009 to submit the first plat.
- The fact that the Ray's Creek Outfall (sewer) has not been constructed necessitates the request. (It is virtually impossible to obtain financing for a development when the municipal sewer has not begun to be constructed.) The County is still acquiring right-of-way.
- The developer has offered to pay \$200,000 to the County to help defray costs of the Ray's Creek Outfall. (This approximates the savings the developer would realize by not installing a lift station). We request this agreement be reduced to writing as soon as possible. Also, the construction of Ray's Creek Outfall must begin in the Spring of 2008 in order for the developer to meet the January 10, 2009 requirement.
- Additionally, the developer understands the planning staff recommendation is to grant the 12-month extension, while at the same time recommending an allocation request (water and sewer) be considered by the Board of Commissioners at their December 3, 2007 meeting. The developer strongly disagrees with this position on the grounds that Berkeley Hills was granted water and sewer allocation January 2006 when the preliminary plat as approved. This is not a new allocation request.
- We request this allocation be grandfathered. In support of that request, the developer asks the Board to consider the following:
 - The develop began working with the County on this project back in 2003 when Tom Couch was Utilities Director and Chuck Murray was Interim County Manager.
 - They have taken their time to allow the Ray's Creek Outfall to be designed and permitted.
 - They have assisted in bringing some landowners to the table to sign an easement agreement with the County.
 - As recently as January 2007, they were provided a schedule by Franklin County which called for the Ray's Creek Outfall to be completed by December 2007.

Pat Young stated he disagrees that the pump station alternative still exists here. He stated there have been a couple of property owners who have been difficult in obtaining right-of-ways which has delayed construction. He stated a pump station is not preferred but is available. Darnell Batton stated everyone is grasping for allocation which is limited at this time. He stated developer has many points but the legal right to grant allocation is up to the Board of Commissioners and not the Planning Board. Mr. Young stated allocation can't be granted at this time. Mr. Brinkley stated they clearly see this is an existing allocation. He stated in order to go to a lift station, development would have to be re-permitted by the state and go through stages. He stated he doesn't feel they would be able to meet the January 2009 deadline if extension is granted. Willie Bartholomew questioned if they went to a lift station, would they have to go through the property owners. Mr. Brinkley stated no they would stay solely on their property but would have to have the plan re-drawn.

Mr. Liles stated they have made a huge commitment to get all the required state permits, which are on the way of expiring as well. He questioned if a 12-month extension would even work since the sewer lines are not in place since they are awaiting acquisition of right-of-ways. He stated if sewer allocation is not granted and extension is not granted, they will have to bankrupt the project. He stated these factors may make the project not feasible at all. Scott Hammerbacher stated the \$200,000 contribution would cover the costs of a lift station. Mr. Hammerbacher stated within this development that has been resubmitted there are changes and when it is amended it is subject to all policies and regulations of the UDO. He stated development communities are subject to the same rules. Pat Young stated the best solution is for the petitioner to make their own determination when the absolute latest date they can hold off for the sewer lines, then they can move forward with the pump station alternative. He stated there wasn't a developer agreement or a contract with the County and they had the alternative to go with other options. Robert VanGraffeland questioned if a variance from the Board of Adjustment would solve the issue. Scott Hammerbacher stated no. Richard Hoyle stated he feels it would be giving false hope of granting the extension. Darnell Batton stated it's not within the Planning Board authority to make a motion regarding allocation, but they are to only act on the one year extension. He stated he feels it would be fine if they make a recommendation regarding the allocation to the Board of County Commissioners.

Mr. Liles questioned if it is possible to reapprove the subdivision instead of granting an extension. Pat Young stated a standard subdivision approval is for only 24 months. Robert VanGraffeland questioned if the plan could be resubmitted after the one year extension expires. Mr. Young stated the developer could resubmit on the 366th day but they would be starting from the very beginning and may have a harder time getting the allocation. Scott Hammerbacher stated new submission would have to go through the full process of approval (TRC, DOT, etc...). Mr. Liles questioned if a variance could be granted by the Board of Adjustment. Mr. Young stated they can grant a variance from the UDO regulations based on a hardship of the land, not financial hardships. Mark McArn questioned what would happen if the Commissioners didn't approve an allocation. Mr. Young stated if the Commissioners didn't approve for the allocation, the project would have to be redrawn into larger lots.

Ronnie Pearce made a motion, seconded by Robert VanGraffeland to approve the extension with staff recommendations and the Planning Board further recommended that the Board of Commissioners consider the allocation. The motion passed unanimously.

#4. Airport/HUB District Small Area Plan Advisory Committee (SAPAC) Policy Recommendations

Pat Young stated the Small Area Plan study area consists of approximately 19 square miles surrounding the Franklin County Airport. He stated the study area corresponds with the parcels most likely to be directly impacted by Airport and HUB operations. He stated the Commissioners created a seven member Airport/HUB District Small Area Plan Advisory Committee (SAPAC) to oversee the development of the Small Area Plan. He recognized Shane Mitchell (Chairman for SAPAC) who was present if the Planning Board had any questions.

Mr. Young gave a powerpoint presentation that outlined each policy and also included the implementation steps. The Planning Board agreed to go over all the policies and then they would vote on all 19 at once or any policies they feel needed changing prior to being presented to the Board of County Commissioners. Richard Hoyle stated he had to leave meeting due to previous commitment for his family. Robert VanGraafeiland stated he served on the SAPAC and he feels the Planning Board should discuss Policy #11 which would reduce residential densities in the Airport/HUB District to 1 residential unit per 1 acres for new residential development and reduce residential densities in the 2027 55 DNL zone to 1 residential unit per 4 acres for new residential development (Note: Existing and approved developments would retain vested rights). Mark McArn stated he feels staff recommendations were the way to go and the SAPAC voted in favor for the policies as presented. He stated there needs to be lower density around industrial development to have smart growth and he feels the Planning Board needs to consider this. Mr. VanGraafeiland stated the environmental constraints almost put a hold on development when you look at the topography and unsuitable soils. Ricky May feels if Policy #11 is changed, then the Small Area Plan needs to go back to the SAPAC for re-discussion.

Shane Mitchell stated he feels it is not fair to the SAPAC or the process if the Planning Board changes policies after all the time and consideration that was put into coming up with the policies without the input of the SAPAC. Mark McArn stated there have been many hours spent on this project and he agreed with Mr. Mitchell on the possibility of changing any of the policies. Ronnie Pearce questioned the outlook of the possible industries coming to the area. Mr. Mitchell stated he serves as Chairman of the Economic Development Commission and the outlook is good. He stated there are several Wake County businesses looking to relocate to Franklin County. He stated there are 8 industries presently located in Franklin County that are expanding their existing businesses. Mr. McArn stated he is a Commercial Broker and he is seeing the most industrial growth that he has ever seen.

William Wallace made a motion, seconded by Ricky May to approve the Small Area Plan Policy Recommendations as presented. The motion passed unanimously.

- #5. Other Business Reports/Discussion
 - A.) Departmental Report
 - B.) Other Business/Reports/Open Forum

With there being no further business before the Planning Board, Vice-Chairman Bartholomew adjourned the meeting at 9:20 P.M.

Willie Bartholomew, Vice-Chairman
Franklin County Planning Board

Tammy Davis, Clerk
Franklin County Planning Board