

MEETING MINUTES
ORANGE COUNTY PLANNING BOARD
APRIL 3, 2019
REGULAR MEETING

*NOTE: Due to equipment failure there is no audio of the meeting and the minutes were prepared by staff notes and recollections

MEMBERS PRESENT: Lydia Wegman (Chair), At-Large Chapel Hill Township Representative; David Blankfard (Vice-Chair), Hillsborough Township Representative; Randy Marshall, Bingham Township Representative; Kim Piracci, Eno Township Representative; Adam Beeman, Cedar Grove Township Representative; Hunter Spitzer, At-Large Chapel Hill Township, Carrie Fletcher, Bingham Township Representative;

MEMBERS ABSENT: Patricia Roberts, Cheeks Township Representative; Buddy Hartley, Little River Township Representative; Paul Guthrie, At-Large Chapel Hill Township; Vacant, Chapel Hill Township Representative; Vacant, At-Large;

STAFF PRESENT: Pat Mallett, Planner II; Michael Harvey, Current Planning Supervisor; Phil Vilaro, Environmental Health Supervisor; Tina Love, Administrative Assistant III

OTHERS PRESENT: Tim Smith, Summit Engineering; Mark O'Neal, Picket-Sprouse; Paul Noe; Craig Carter; Patricia Catto; Cyrus Griswold; Marie Huskett; Linda Nathansen;

HANDOUT: Handout LID Savings Comparing to Traditional Stormwater Management (Low Impact Development) submitted by Linda Nathansen to the Board

AGENDA ITEM 1: CALL TO ORDER AND ROLL CALL
Chair Lydia Wegman called the meeting to order

AGENDA ITEM 2: ELECTION OF VICE-CHAIR FOR REMAINDER OF 2019

David Blankfard, Hunter Spitzer and Adam Beeman volunteered for the Vice-Chair position. A secret ballot was requested. Paper was distributed to the Board and collected by Tina Love who tallied the ballots and announced that Hunter Spitzer received 2 votes, Adam Beeman received 2 votes and David Blankfard received 3 votes making David Blankfard the new Vice-Chair

VOTE: Blankfard – 3, Hunter – 2, Beeman – 2
David Blankfard elected as Vice-Chair

AGENDA ITEM 3: INFORMATIONAL ITEMS
a. Planning Calendar for April and May 2019

AGENDA ITEM 4: APPROVAL OF MINUTES
March 6, 2019 Regular Meeting
March 20, 2019 Special Meeting

MOTION by Adam Beeman to approve the March 6, 2019 Regular Meeting Minutes and the March 20, 2019 Special Meeting Minutes with corrections. Seconded by Hunter Spitzer.

VOTE: Unanimous

AGENDA ITEM 5: CONSIDERATION OF ADDITIONS TO AGENDA

52 **AGENDA ITEM 6: PUBLIC CHARGE**

53 Chair Lydia Wegman read the Public Charge

54

55 **AGENDA ITEM 7: CHAIR COMMENTS**

56 There were none

57

58 **AGENDA ITEM 8: MAJOR SUBDIVISION CONCEPT PLAN REVIEW** -To review and take action on a Concept Plan
59 application for a Major Subdivision called Fairway Hills. The proposal is for a 20 lot single-family Flexible
60 Development subdivision on 41.97 acres (PINs 9884-32-3275 and 9884-31-9874) located in Eno Township on the
61 north side of US Highway 70 across from Occoneechee Golf Club.

62 **PRESENTER:** Patrick Mallett, Planner II

63

64 *Patrick Mallett reviewed the case history and changes since the original application, presented a PowerPoint*
65 *presentation and reviewed the abstract including attachments.*

66

67 *The project, originally proposed as a 27 lot Class A Special Use Permit Major Subdivision project, had been revised*
68 *by the applicant. Now, Fairway Hills is proposed to be a 20 lot Flexible Development Cluster Major Subdivision. As*
69 *a result, the review of the project would follow standards established within Section 2.15 of the UDO rather than the*
70 *Special Use Permit process as contained in Section 2.7. Further, the applicant was no longer required to abide by*
71 *standards contained in Section 5.17.6 of the Unified Development Ordinance as the project is no longer classified as*
72 *requiring a Special Use Permit. The applicant was still obligated, however, to demonstrate compliance with the*
73 *provisions of Article 7 of the UDO, which establishes the development standards for subdivision projects.*

74

75 *The proposal will still involve creation of individual single-family residential lots for future development, proposed to*
76 *be served by roadways constructed to applicable NC Department of Transportation guidelines. The proposed lots*
77 *range in size from 42,785 square feet (smallest) to 125,765 square feet (largest). The Gross density is one dwelling*
78 *unit per 2.1 acres, which is consistent with applicable Comprehensive Plan land use designations and the Lower Eno*
79 *Protected Watershed Protection Overlay district. The applicant was proposing the creation of approximately 37% of*
80 *open space area, which will be managed by a local homeowners association.*

81

82 *The applicant is proposing to serve the project with individual wells and for septic systems developed on each lot.*
83 *The Concept Plan denotes anticipated areas for septic sites. The applicant has also conducted more detailed well*
84 *and septic analysis and submitted documents as part of their application.*

85

86 *Overall drainage will be engineered according to applicable standards at the time of permit application for*
87 *construction. The property is subject to adopted erosion control and stormwater management guidelines. The*
88 *Concept Plan currently anticipates improving drainage using mostly Common Open Space Areas.*

89

90 *The Concept Plan denotes a 75 foot wide Type E natural/constructed landscape buffer along US Highway 70 East.*
91 *This area will be planted with additional materials and landscaped (e.g. berms/fencing) to augment preserved*
92 *existing vegetation. The 75 foot buffer will meet the required Type E Buffer, as outlined in Section 6.8.6(F) of the*
93 *UDO. The applicant has proposed a 50 foot perimeter well and septic setback and a 100 foot building setback, which*
94 *would limit structures, clearing and utilities along the perimeter and US Highway 70 East.*

95

96 *Tim Smith of Summit Engineering presented a PowerPoint presentation and provided additional project details.*

97

98 Lydia Wegman asked Tim about the additional set-backs and about the wells and septic.

99

100 Tim Smith confirmed that the building set-backs on US 70 would be 125 feet and 50 feet for well and septic. He also
101 advised that they have hired a consultant for the express purpose of studying the water and septic requirements
102 needed.

103 Adam Beeman questioned the expected size of the homes.
104
105 Tim Smith related that they expect to build 4 to 5 bedroom homes depending on the individual lot soils and sizes.
106
107 Randy Marshall asked if the project would be adding stub outs for future development
108
109 Tim Smith responded that they would not be adding them because the adjacent properties were not likely to be
110 developed.
111
112 Pat Mallett indicated the County staff was not recommending creation of stub outs to serve adjacent properties. This
113 was due to a combination of factors, most notable surrounding development patterns, topography, and concerns over
114 impacting existing water features.
115
116 There was general discussion on the potential environmental impacts of roadways crossing water features.
117
118 Hunter Spitzer asked if they would consider making the internal road into a complete loop for the convenience of the
119 property owners.
120
121 Tim Smith replied that the topography and reduction to the size of the lots made it undesirable. To do a loop street
122 system would actually require more land disturbing activity and impact the existing grade potentially creating
123 stormwater control issues.
124
125 Lydia Wegman asked if the open space was going to be available to the property owners to use.
126
127 Tim Smith asserted that all the open space was available for all of the residents who would own property within
128 Fairway Hills and that for the most part it is wooded and would remain so with mulch paths etc. Mr. Smith stressed
129 any trails development within the open space would not be available for non-property owner access.
130
131 David Blankford asked if staff and Mr. Smith could provide additional details on the potential stormwater needs for the
132 project.
133
134 Pat Mallett reminded the Board the property was located within the Lower Eno Protected Watershed Protection
135 Overlay district. Project disturbing more than 20,000 square feet of land area are required to submit and receive
136 approval of an erosion control plan. Projects disturbing more than 21,780 square feet of land area are required to
137 submit and receive approval of a stormwater plan. Fairway Hills will require both erosion control and stormwater
138 permit review and approval. The Concept Plan denotes the location of anticipated stormwater facilities. Mr. Mallett
139 reminded the Board erosion control and stormwater plans would be submitted prior to the commencement of land
140 disturbing activity assuming the project was, ultimately, approved.
141
142 Tim Smith indicated the project involved centrally located stormwater facilities. These stormwater control measures
143 would address the overall development of the project. Development on individual parcels may also require the
144 property owner to develop appropriate stormwater control measures as well.
145
146 There was general discussion.
147
148 Lydia Wegman asked if there were any comments or questions from the public.
149
150 Linda Nathansen expressed concerns on multiple issues regarding the development and request that there be testing
151 of the wells done for the neighbors that could potentially be negatively impacted so that if in the future there is a
152 problem the property owners have proof that it was not a problem before the development. She requested that no
153 use of round-up or similar pesticides be allowed to be used and expressed concerns about run off and stormwater

154 issues. She requested that the use of Low Impact Design (LID) stormwater management be considered and handed
155 out a paper that compared the system to traditional systems. She related that there was an underground tank on the
156 property and that there was the potential of contamination from it to the adjacent properties.

157
158 Michael Harvey reminded the Board that the County has some of the most restrictive stormwater regulation in the
159 area. Developers were required to address both water quantity, specifically how much water was leaving the site,
160 and water quality, specifically the removal of nutrients from the project. This project would also have to abide what is
161 known as pre and post stormwater runoff conditions. What this means is that under current conditions if there was
162 approximately 1 inch of water running off the property in its pre-development state, there can be no more than 1 inch
163 of runoff generated by the property in its developed state. Mr. Harvey further reminded the Board they could not
164 compel or require the applicant to adhere to a specific stormwater design standard. That would be addressed during
165 the stormwater permitting stage based on applicable County and State regulations. While he appreciated Ms.
166 Nathansen's suggestion that the project use low impact design principles, there was no guarantee the project would
167 qualify for same.

168
169 Michael Harvey reminded the Board that is surrounding wells were already experiencing issues, it would be prudent
170 for those property owners to contact Orange County Environmental Health to ascertain if the wells need to be re-
171 drilled. Testing of wells to try and establish a baseline of existing issues, in the hopes of holding property owners
172 within Fairway Hills accountable for potential impacts, was not practical. The assumption that future problems will be
173 the direct impact of this project represented a false premise as development/redevelopment of surrounding lots could
174 also lead to the problems Ms. Nathansen was concerned about.

175
176 Craig Carter expressed concern on the well water table and contamination. He related that several properties had
177 contaminated wells and had to have then drilled deeper and that there had been 3 gas stations there in the past.

178
179 Mark O'Neal of Pickett-Sprouse addressed the concern and advised that the tank had been for heating oil and had
180 been removed, the soil around it was also removed and the remaining soil has been tested and cleared by an expert.

181
182 There was additional, general, discussion on contamination issues.

183
184 Michael Harvey reminded the Board of existing wells were contaminated, then property owners should take action to
185 work with the Health Department to address those issues. That was a separate issue from the review of this project
186 however.

187
188 Paul Noe addressed the Board to second the comments made by Linda Nathansen and potential impacts to area
189 wells.

190
191 Randy Marshall asked if there was a precedence to require the developer to pay a bond to be used if there was a
192 negative impact on the wells in order to protect the current residents of the area.

193
194 Adam Beeman expressed that if you couldn't determine exactly which property was the straw that broke the system
195 and if a bond was required it would then become even more difficult to have any kind of development in Orange
196 County than it is now and all development would cease.

197
198 Michael Harvey addressed the Board and advised that he could not legally require any type of bond to address
199 potential well impacts and that it wasn't possible for the Board to require same. He further reminded the Board that
200 the presumption this project would be the genesis of future problems was based on flawed logic. There was no way
201 to determine what could or could not happen. From a liability standpoint it would be difficult to determine this project
202 was the sole cause of contamination.

203

204 Randy Marshall said he understood a bond was not prudent or legally permissible, but wanted to make sure there
205 was an answer on the record of this fact.

206
207 Michael Harvey indicated Mr. Phil Vilaro of Orange County Environmental Health was in the audience and would like
208 to address the Board concerning well and septic issues.

209
210 Phil Vilaro spoke to Board to address concerns about well safety and water table issues. He reassured the Board
211 that it standard practice to have wells on multiple lots similar to the size proposed within this project and that it is not
212 an issue in his mind to have 20 individual wells created to serve these lots. M. Vilaro did not believe development of
213 this project would impact water pressure or the water capacity of surrounding wells. Mr. Vilaro reminded the Board
214 Orange County does not have a true aquifer/water table. This is why you have such a disparity in well depth, water
215 quality, and generated gallons per minute from property to property in any given area. In discussing surface water
216 contamination he expressed the rarity of that happening in Orange County because of the standards required by the
217 County for every new well drilled. Mr. Vilaro said County requirements, with respect to the drilling and installation of
218 wells, were amongst the strictest in the State. Mr. Vilaro agreed older wells, installed prior to the adoption of local
219 comprehensive regulations in the mid 1980's, were indeed subject to potential impacts from runoff given how they
220 were constructed (i.e. depth, casing, etc.). Such wells need to be replaced as they are not suited to address such
221 contaminant issues.

222
223 Craig Carter thanked Mr. Vilaro for his explanation and provided some history on the well his grandparents installed
224 on their property to provide additional context on his concerns with respect to well impacts and contamination issues.
225 The well was constantly providing 'muddy' water and there were issues with contaminants at times.

226
227 Phil Vilaro indicated he believed Mr. Carter and suggested part of the problem was the well was not installed deep
228 enough to avoid subsurface silt runoff and contamination. Current practice requires wells to be dug deep to address
229 this issue and to be properly incased/grouted to protect the integrity of the well. Mr. Vilaro reminded the Board
230 approximately 80% of the County was intended to be served by private wells and septic systems as there were no
231 plans by the County to extend/develop public utility systems.

232
233 There was lengthy discussion amongst the Board and Mr. Vilaro on septic and well permitting.

234
235 An unknown individual asked if there was an opportunity for this project to tie into public water from the Town of
236 Hillsborough. Pat Mallet indicated the property was not in a designated public utility service area, which meant there
237 was no opportunity for the project to be served by public utilities.

238
239 Patricia Catto indicated she had the same concerns about stormwater runoff and well contamination as previous
240 speakers and further expressed disappointment in the notification process for this project. Ms. Catto indicated
241 property owners need to be kept notified whenever a development is proposed in the Town of Hillsborough so they
242 can have a voice in the process.

243
244 Michael Harvey indicated the County had the most rigorous notification requirements in the region, well exceeding
245 State requirements. Mr. Harvey reminded the Board a neighborhood information meeting was held for this project,
246 with property owners within 1,000 feet of the parcel being notified of the date and time of the meeting via letters sent
247 first class mail. Staff posted signs on the property advertising the neighborhood meeting 10 days prior to the event.

248
249 Michael Harvey said the agenda for this meeting was advertised in 2 local newspapers and additional notice was
250 sent to adjacent property owners of the meeting date and time via first class mail. Information on the project was
251 also posted on the County website with a detailed explanation of what the project entailed. Staff also posted signs on
252 the property advertising the date and time of this meeting where the Concept Plan was to be reviewed. Mr. Harvey
253 said he could not address Ms. Catto's concerns about other projects in the Town of Hillsborough as the County did
254 not manage the Town's planning program and suggested she make contact with the Town to address her issues.

Approved 5/1/19

255 Michael Harvey asked Ms. Catto where she lived. Ms. Catto responded she lived approximately 5 miles away from
256 the proposed subdivision. Mr. Harvey reiterated the notification requirements as contained within the UDO and
257 indicated Ms. Catto was not notified of meetings via first class mail due to the location of her residence but that the
258 County takes additional steps with the posting of signs, advertisement of meetings in 2 newspapers, and posting
259 project updates on the County website for the interested to obtain proper notice of projects and meeting dates.
260

261 There was additional discussion on meeting notification and on County standards well exceeding State minimum
262 requirements.
263

264 **MOTION** by Randy Marshall to approved the Flexible Development option Concept Plan and allow the applicant to
265 proceed with the development and submittal of a Preliminary Plan and application utilizing this layout. Seconded by
266 Adam Beeman.

267 **VOTE:** Unanimous
268

269 Pat Mallett advised the Board Members that this and residents regarding the next steps for the case and how to
270 obtain information
271

272 **AGENDA ITEM 9: ADJOURNMENT**

273 The meeting was adjourned by consensus
274
275
276
277

Lydia N. Wegman, Chair