

PLANNING & ZONING REVIEW NOTES

VII. A.

SUBJECT: Request by Glenn M. Phillips, P. E., Ballentine Associates, P. A. on behalf of James E. Dixon for subdivision sketch design approval of “**Dixon Property**”, consisting of 28 lots on approximately 83 acres, located off S. R. 1532, Mann’s Chapel Road, Baldwin Township.

ATTACHMENTS:

1. Major subdivision application.
2. ArcView map, parcel #62205
3. Plat Slide A, Page 82, entitled “Persimmon Hill”, dated May 2, 1984.
4. Plat Slide 2003, Page 258, entitled “Final Plat of Dixon Property, Survey for James E. Dixon”, dated May 7, 2003.
5. Letter from Glenn M. Phillips, PE, dated November 14, 2005, regarding sketch plan submittal.
6. Persimmon Hill Homeowners Association Land Transfer Agreement.
7. NCDOT commercial driveway review form dated October 7, 2005.
8. Letter dated January 17, 2005 from Kennedy Covington, Attorneys at Law, regarding right-of-way improvements.
9. Letter from David G. Hackney, adjacent property owner, dated January 26, 2006, requesting postponement of Dixon Property sketch design review.
10. Letter from Clifton & Singer, LLP, Attorneys at Law, dated January 31, 2005.
11. Soil scientist report and map prepared by Soil & Environmental Consultants, PA, (S&EC), dated December 13, 2004.
12. Mann’s Chapel Road right-of-Way Surveyors Report, dated February 1, 2006.
13. Sketch design map entitled “Dixon Property”, prepared by Ballentine Associates, P. A., dated November 11, 2005.

INTRODUCTION /BACKGROUND / PREVIOUS BOARD ACTIONS:

See major subdivision application and sketch design plan for background information.

The Dixon property has an existing, recorded, 60 foot wide, private easement from Persimmon Hill Road. See attachment # 4. This easement is proposed to be abandoned. Persimmon Hill Subdivision, consisting of 29 lots, was approved in 1984 by the Chatham County Planning Board. The minimum lot size is approximately 1.7 acres with an average lot size of 2.065 acres. The roadway was approved as a public road built to state standards. See attachment # 3. According to the County Subdivision Regulations the lot sizes as approved could not have been approved unless accessed by a public road built to state standards. The Persimmon Hill Homeowners Association has not petitioned the North Carolina Department of Transportation for maintenance, although the density requirements have been met; therefore, The Homeowners Association considers Persimmon Hill Road to be a private roadway. The County's position is that the roadway was approved by Chatham County to be a public, state maintained roadway and although the roadway is currently not maintained by NCDOT, the roadway is public and could be utilized as an access to the Dixon property.

ISSUES FOR FURTHER DISCUSSION AND ANALYSIS: The applicant is requesting sketch design approval of 28 lots to be accessed off of SR-1532, Mann's Chapel Road, by construction of a new state maintained roadway. The NCDOT has reviewed the location, as shown on the sketch plan, and found it acceptable. See attachment #7. It is unclear that NCDOT staff was aware of the location of different property ownership and property boundaries at the time the letter was written. The Planning Department requested that the applicant mark such information on the ground and have the NCDOT verify their position in the field. According to Jessie Knight with the NCDOT to date they have not reviewed the situation again. This access point is dependent upon execution of a land transfer agreement with the Persimmon Hill Homeowners Association. See attachments 5 and 6. Attachment # 6, the Persimmon Hill Homeowners Association Land Transfer Agreement dated November 2, 2005, expired on December 31, 2005. Staff thinks that the Persimmon Hill Homeowners Association should sign the major subdivision application as a party to the Dixon request and that a new Land Transfer Agreement should be signed showing a future expiration date prior to proceeding with the sketch design review. The applicant has stated that he will provide this at the Planning Board meeting.

The issue has been raised by an adjoining property owner, David Hackney, as to whether or not NCDOT has sufficient public right-of-way along this portion of Mann's Chapel Road to allow the Dixon property to create a subdivision entrance with required site triangles and possible turn lane off SR-1532 without adversely affecting his adjoining property. Mr. John E. Markham, Jr. and Mr. Patrick L. Byker, Kennedy Covington, Attorneys at Law, representing the applicant have stated in attachment # 8 that in their opinion there is sufficient right-of-way to construct the proposed entrance. Attachment # 12, Mann's Chapel Road right-of-way surveyors report, prepared by Ballentine Associates, P. A., dated February 1, 2006 has also been offered by the applicant in support of their position. Mr. David Hackney does not agree with this position and has requested this issue be postponed in order to give his attorney adequate time to review this issue. His attorney, Mr. Benjamin F. Clifton, Jr. of Clifton & Singer, LLP, has stated

ISSUES FOR FURTHER DISCUSSION AND ANALYSIS – con't

in a letter to staff that "It would certainly appear from the face of the letter that the theories put forth by Mr. Markham can be challenged." See attachments #9 and 10. As of this date, Mr. Hackney, his attorney, nor the county attorney has had an opportunity to review the information submitted by the applicant.

Section 6.2 C (1) of the Subdivision Regulations states that "The minimum cul-de-sac pavement radius for curb and gutter section and shoulder section is 40 feet. The minimum right-of-way radius for curb and gutter section and shoulder section is 55 feet. The sketch plan does not list this information.

Tom Bender, Chatham County Fire Marshall, has requested a temporary turn-around be constructed at the end of Road 'C' shown on the sketch design plan for emergency vehicle access. This turn-around should be the same size as specified above in Section 6.2 C (1), but can be a graveled area. Glenn Phillips, applicant, has stated that the proposed public roadway, Road 'A', will be constructed as shown on the sketch plan. Per Tom Bender, no turn-around will be necessary at this location if the proposed public roadway is fully constructed and intersects the private easement to Twin Lakes Golf Course.

County water is available to the project and will be utilized. Each lot is proposed to have an individual septic system and repair area. Attachment # 12, the soil scientist report and map have been reviewed by Thomas Boyce, Chatham County Environmental Health Specialist, and found adequate for sketch design review.

RECOMMENDATION: If the applicant has not furnished the necessary signature(s) on the major subdivision sketch design application and/or not furnished staff a valid Land Transfer Agreement by the date of the Planning Board meeting, the Planning Department recommends tabling the issue for one month. The Planning Department recommends tabling this issue for one month to also allow sufficient time for the information submitted by the applicant February 1, 2006 regarding the Mann's Chapel Road right-of-way / Dixon property entrance issue to be reviewed by the county attorney and David Hackney. If the Planning Board wishes to grant sketch design approval, the Planning Department recommends the following conditions:

1. The Mann's Chapel Road right-of-way / Dixon property entrance issue be resolved prior to the applicant submitting for preliminary plat review.
2. The land transfer between James E. Dixon and the Persimmon Hill Homeowners Association be completed prior to submittal of the preliminary plat for review.
3. The preliminary plat show the correct cul-de-sac radius and the temporary turn-around as recommended at the end of Road 'C'.