



CHATHAM COUNTY BOARD OF COMMISSIONERS AGENDA ABSTRACT

ITEM NUMBER:
MEETING DATE:
4-17-06

PART 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.

Action Requested: See Recommendations.

Attachments: See Attachments (listed following notes)

Submitted By:

Keith Megginson, Planning Director

Date

County Manager Review:

Charlie Horne, County Manager

Date

This abstract requires review by:

☒ **County Attorney**

Date Reviewed

☒ **Finance Officer**

Date Reviewed

☐ **Budget Officer**

Date Reviewed

PART B

Re: Dixon Property

Introduction / Background / Previous Board Actions:

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

The Dixon Property request was on the February 7th Planning Board agenda. Staff notes and attachments were distributed in the February Planning Board packets. At the Planning Board meeting, the applicant requested the issue be postponed until the March Planning Board meeting and the review period not commence until the issue was placed back on the Planning Board agenda. The issue was not reviewed in February or March.

The main issue complicating this proposal is the location of public road access to the project. The Dixon property has ownership frontage on Persimmon Hill Road as shown on Plat Slide A-82, attachment 3. There is also an easement across lot 1 of the Dixon lands of 63 acres to lot 2 of 20 acres as shown on Plat Slide 2003-258 as 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 serving lots within the Persimmon Hill Subdivision was approved as a public road to be built to NCDOT 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 NCDOT standards. The roadway was constructed to the NCDOT standards; however, the Persimmon Hill Homeowners Association has not petitioned the North Carolina Department of Transportation for maintenance, although the housing density requirements have been met. The Homeowners Association considers Persimmon Hill Road to be a private roadway. The County's position is that the roadway was required 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 SR-1532, Mann's Chapel Road, by construction of a new state maintained roadway. The Persimmon Hill Homeowners Association currently owns the property where the proposed entrance to the Dixon property is to be located. See shaded area on plat. The NCDOT has reviewed the location, as shown on the sketch plan, and found it acceptable. See attachment #7. The adjoining property owner, David Hackney, has questioned Mr. Dixon's right to access the property at this location. See discussion below. The Planning Department requested that the Mr. Dixon have the property lines marked on the ground for review by NCDOT. According to Jessie Knight with the NCDOT, to date, they have not been requested to review 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. A revised Land Transfer Agreement has been prepared and signed extending the expiration date to June 30, 2006. See attachment # 16. The Persimmon Hill Homeowners Association has signed the major subdivision sketch application as a party to the Dixon request.

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

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Issues for Further Discussion and Analysis – con't

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 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. Glenn Phillips, Engineer, representing Mr. Dixon, and Mr. Hackney both addressed the Planning Board regarding this issue. Attachment 14 from attorney Paul Messick addresses the access/land issue and generally states that this is an issue of the private parties involved and the NCDOT. The Planning Board discussed this issue at length and reached a consensus of agreement with the County Attorney that this is a matter that has to be resolved by the private property owners and NCDOT.

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, Engineer for the applicant, has stated that the proposed public roadway, Road 'A', will be constructed as shown on the sketch plan connecting to the private roadway accessing Twin Lakes Golf Course road, a private easement. 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. Adjacent property owners, Nelson Walls and Jack Wilkins, both addressed the Board with concerns regarding access to Twin Lakes Golf Course Road. Mr. Walls and Mr. Wilkins both stated that they preferred the proposed public roadway not connect with Twin Lakes Golf Course Road due to potential traffic increase on their private easement. Discussion by the Planning Board followed.

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. At the February 7th Planning Board meeting, a question was raised about the date and acreage of said report. The soil scientist has revised the soil report to reflect the correct acreage and a current date. See attachment # 15.

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Recommendation: The Board of Commissioners has 45 days from April 17 to act on this request. The Board can table the request, deny the request for specified reasons, approve the request as submitted or approved the request with conditions/revisions. The Planning Department and Planning Board recommend granting sketch design approval with 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 Persimmon Hill Homeowners Association shall sign the major subdivision preliminary application unless the land transfer between James E. Dixon and the Persimmon Hill Homeowners Association is completed prior to submittal of the preliminary plat for review.
3. The preliminary plat shall show the correct radius for each cul-de-sac and shall include a temporary turn-around as recommended at the end of Road 'C'.
4. Road 'A' as shown on the sketch design plan shall be stubbed out on the west side of the creek and shall not extend to the eastern boundary line of the Dixon property. A temporary turn-around, meeting the size requirements for a cul-de-sac as specified in the Subdivision Regulations, shall be built at the end of road 'A'. A 50 foot wide dedication of public right-of-way shall be shown from the end of the cul-de-sac on the west side of the creek to extend across the creek to the balance of the Dixon property.

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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.
14. Memo to Keith Megginson from Paul Messick, dated February 20, 2006 regarding Dixon Subdivision.
15. Revised soil scientist report, dated March 20, 2006
16. Revised Persimmon Hill Homeowners Association, Land Transfer Agreement, dated February 4, 2006 regarding extending the expiration date of the agreement to June 30, 2006
17. Letter from David G. Hackney, dated March 9, 2006 regarding Dixon Property.