

Majority Report of Planning Board Deliberations on the Preliminary Approval Request for The Glens

March 19, 2007

Chris Walker, Chair, Chatham County Planning Board, representing:
Sally Kost, Vice-Chair; Evelyn Cross; Karl Ernst; David Klarmann; Clyde Harris

The Planning Board evaluated a request on March 6, 2007, by Community Properties, Inc. for Preliminary approval of The Glens. The vote was 6 in favor of approval and 5 against.

In July 2006, the Planning Board, in an 8 to 2 vote, recommended approval of Sketch design of The Glens, known then as the McBane Property Subdivision. At that time, a minority report was submitted urging that an environmental assessment be conducted, which was the proper time for such consideration. The Board of Commissioners voted to approve the project without requiring the assessment.

Although the current environmental concerns expressed by the minority are a serious matter, the primary opinion of the majority was that an environmental assessment could not be required at the Preliminary stage in the approval process. The precedent of County regulations has held, at least to this point, that environmental assessments must be required as a condition at the stage of Sketch design, to be submitted with the Preliminary plat. In addition, North Carolina courts held, in the case of Astoria (now The Preserve) that the Land Conservation Development Plan is to guide the decisions of the Board of Commissioners, but is not a rule of law.

The majority also felt that requests by the minority for further review of streams on the property and a “cumulative impact” study of all the developments on Old Graham Road could not be supported. The Subdivision regulations do not contain provisions for evaluating development based on the cumulative impact of other development in an area. The U.S. Army Corp of Engineers has made a determination of the streams on the property and based on their opinion of stream classification, the required buffers have been provided. At the Planning Board meeting, the developer did agree to provide a 100-foot buffer for Dry Creek, twice the size of what is required.

Further, the majority felt that a Preliminary approval decision had to be made based on North Carolina General Statutes, § 153A-330 Subdivision regulation, which states that:

Decisions on approval or denial of preliminary or final plats may be made only on the basis of standards explicitly set forth in the subdivision or unified development ordinance.

The majority felt that the provisions as outlined in the Chatham County Subdivision Ordinance had been met and, therefore, voted to recommend granting Preliminary approval of The Glens.