



TOWN OF CARRBORO

PLANNING BOARD

301 West Main Street, Carrboro, North Carolina 27510

THURSDAY, MAY 7, 2009

MEMBERS		GUESTS	STAFF
Matthew Barton	Heidi Paulsen	Jean Connerat-Austin, Stephanie Snazel, Worth Jackson, Steven	Patricia McGuire
Rich Bell	Susan Poulton	Crabtree, Norman Womble, Josh	Thelma Paylor
James Carnahan	Damon Seils	Hansen, Francis Shetley, Sammy	Marty Roupe
David Clinton	David Shoup	Slade, Virginia Godfrey, Linda	
Sharon Cook	Rose Warner	Brockwell Roberts,	
Debra Fritz	Alderman Lavelle	Mayor Chilton, Alderman Haven-O'Donnell	

I. INTRODUCTIONS AND ADJUSTMENTS TO THE AGENDA – there were none.

II. APPROVAL OF MINUTES - April 16, 2009 – Motion to approve by Carnahan and seconded by Seils to approve the minutes as amended. VOTE: AYES: (9) Barton, Bell, Carnahan, Clinton, Cook, Fritz, Poulton, Shoup and Warner; NOES: (0); Abstentions (2) Paulsen and Warner; Absent/Excused (0).

III. New Business

A) Text Amendment Proposal on Farm Apartments. Sharon Cook presented the item, noting that the proposal originates with Planning Board review (Fall 2008) of a conditional use permit application for subdivision of a lot in the watershed residential zoning district. The subdivision was needed to allow a 540-square foot accessory apartment in a barn. An amendment to the LUO seemed an appropriate avenue to pursue as an alternative to subdivision. Cook described that the proposed amendment seeks to continue to protect low density of the University Lake watershed, not encourage subdivision that would then allow owners to build more than they really need, few farms are in existence (so applicability would be limited), and will assist with farm protection. Cook indicated that permissible uses on subdivided lots are far more intensive than the proposed use. Accessory dwellings are allowed throughout town. Question/response: Does this take all of the potential of a subdivision away? (Planning Board can discuss). Citizen comments were received, as follows:

Jean Connerat-Austin spoke in favor of the amendment. Supports this proposal; is not a farmer but has large animals and knows there is a benefit to have a caretaker on the premises at all times. Urges the PB to adopt this text amendment as it would encourage the farms to survive and not be subdivided. She also thanked PB members for their service.

Stephanie Snazel, who lives in the ULake watershed area, presented petitions in favor of the text amendment – one with over 650 signatures collected at the Farmers Market on Saturday morning and another during recent Piedmont Farm Tour with over 20 signatures in favor of a Carrboro Farm Code. Is not a farmer, but was recently on the annual tour, and was impressed by creative, time-consuming, entrepreneurial effort. Carrboro’s long-standing commitment to local farming is clear. It seems that having a farm code that would allow workers to reside on these properties to care for livestock, or perhaps to harvest grapes in the early morning, that supporting these important types of revenue generators would be a good action.

Worth Johnson read from a fact sheet (pink copies) handed out by members of the audience supports the text amendment so farms do not have to go through a major subdivision.

Stephen Crabtree commented that he has lived in Carrboro all of his life, family has farms and extended property around here. Text amendment sounds good but questions what else it might entail. He cannot vote on something blindly and would like to get more information and suggests more input from the community before it is voted on.

Numa Womble is 80 yrs old, lives on Smith Level Road, and has been there all of his life owning 65 acres and is interested in farmers. He does not require input from Carrboro or anyone else. He wants to leave his acreage just like it is and doesn't want anyone to tell him when to subdivide. He does not want to subdivide his land. The literature that he received included information on subdividing his farm, getting rid of livestock, and getting ready for 2020. He wants to keep his livestock, keep his property well-maintained; he is interested in right now and not 2020.

Josh Hansen represented Marilyn Kille in the zoning litigation and helped with submittal of conditional use permit application last fall. He notes that Mayor Chilton's emails ask that density be considered. The proposed text amendment proposes to limit density by allowing only an accessory apartment. The alternative process, a major subdivision would allow all the uses described by Ms. Cook. Ms. Kille has already undergone the subdivision process. The requirement that farmers in the watershed protect water quality through limited land uses has disproportionately burdened the farm community over the past 20 years.

Francis Shetley resides at 1130 Hillsborough Road in Carrboro. She came down to Town Hall for a March meeting of the Board of Aldermen and got involved leading to her attendance on May 21, 2009. She came for another item, but listened to an attorney who was speaking and heard a lot about this situation, to which she would like to see some resolution. However, she is not in favor of this amendment because it would impact the impervious surfaces; if apartment units are allowed to come in, it could eventually become apartments that are not for farm use and that is not practical because the town has no means to monitor that.

Sammy Slade, who lives in Carrboro, finds the issue highly complex; doesn't feel a decision should be reached tonight. More community input is needed. It seems to be a consensus that this is a watershed that should be protected. The current proposal does not seem to preclude future subdivision of the property, rather a current "fix" to allow one apartment on a farm. If the desire is to truly protect farms, suggested that a farm easement be included as a requirement. The extra rent can be important and helpful for farms that are struggling financially. One example is New York City. The city did a cost benefit analysis and found it would be cheaper to compensate farmers for easements in upstate New York than paying for higher levels/more intensive water treatment closer to the city. Perhaps the town could direct funds to farmers in lieu of additional expenses for water treatment. Watershed protection is very important and we should think through this very carefully.

Virginia Godfrey owns a 63 acre horse farm and does not live in Carrboro. Does not agree with the regulatory burden on farmers; is concerned that this is the first break in the Rural Buffer. She has a hard time believing that impervious surface is a problem to water quality when compared to new developments like Wexford, Lake Hogan Farms and annexation of large homes. She thinks this should be passed and passed now and the town should not be trying to burden these businesses.

Mayor Chilton said that he heard a number of speakers raise possible issues that he would like to address directly. No one is being forced to do a subdivision. Nor is the Town proposing limitations on livestock; rather the town is looking at ways to keep goats and other small livestock within the town boundaries. The Town is not interested in disturbing Mr. Womble's farm. Previous speaker raised some great points; it is very important to recognize difference between community decision made about 20 yrs ago that Carrboro would give up the ETJ over much of the University Lake watershed and gained some jurisdiction at north end of Town in the Bolin Creek watershed, an area that is expected to be part of the town someday. This was done to keep the watershed rural, retaining farms, fields, forests, and hunting

grounds. No one is talking about a new regulation. This comes up now because one person had a problem with existing rules and went about solving it in a way that did not comply with our rules. The colored sheet of paper is not from the Town of Carrboro and there has been somewhat of an effort to create a storm where there really isn't one and it really doesn't have to do with anything. There is not a conflict between people who live in town and those who farm for a living. He would actually like to hear from someone that has a need for a caretaker facility on a farm; as Mayor of Carrboro, he would be willing to speak with anyone at anytime.

Linda Brockwell Roberts lives in Calvander and her family has been there since about 1925. There are some things this board needs to take into consideration. Property owners in northern area did not want to be taken under town's control in 1988; did not want to be part of the Town. Farmers don't need a board of people to tell them when to put fertilizer out or build a cottage. They have enough sense to know what to do. They just want to be left alone and country people are a bit different from city people. They only want to work, tend to their farms and be left alone. Carrboro was named after her mother's family who was a Carr (her cousin was General Julian Carr, for whom Carrboro was named). They are on the northern side and Mr. Womble is on the south side of town; these property owners maintain the entranceways to the Town at their expense.

Planning Board members offered questions and comments: Will you reduce the no. to 600 sq. ft.? (Carrboro definition of an accessory apartment allows up to 750 square feet; to Cook it is not a hard and fast number). How would such a text amendment distinguish between farm land and watershed properties? (McGuire stated that we could use participation in use value for bona fide farming as the defining characteristic). How many farms would this affect? (Previously have stated that it was less than a dozen. Will check and report to PB). Could the LUO apply different rules to property in the same zone just because it is a farm, or if there is some other distinguishing characteristic? (McGuire: Not certain. Theoretically, it could be done. However, there would need to be an ongoing check/verification of the property continuing in use value.) What are the impervious surface restrictions on a 10 acre lot in the watershed? (In the watershed residential zone (WR), the impervious surface restriction is four percent (4%), regardless of use on a 10 acre lot in the watershed). Does the text amendment propose to change that? (No). Is there anything in the amendment that would prevent future subdivision? (No, Cook stated that that could be an onerous burden for this text amendment.) Does anyone know if there are any farmers who would like to go ahead and build accessory apartments other than the one for the Kille property? (Kille speaking from the audience noted there are accessory apartments existing on farms in the watershed that have never been permitted or inspected, as well as barns and other outbuildings that have not been inspected or permitted. Farmers do need help from time to time and housing is very important).

Rob Hogan noted that the Hogans settled here in 1757. As farms transition in the area, going from dairy farms for 65 years and subsistence farms for 100 years before that, to the present value-added, small crops, the requirements on farms are different and he is finding more and more need to have apprentices on his farm. Hasn't needed an apartment to date. He can see in the upcoming future it might be convenient to have several barn apartments to house apprentices. Does not see how the impacts of this use could compare in terms of impervious surfaces and other impacts from the developments that neighbor his 180 acres of farmland, such as Wexford, Sunset Creek, Lake Hogan Farms, et cetera.

UNC student commented that his sister works on an organic farm. There seems to be concerns about abuse of this type of provision by someone other than farmers. Proposed that a strategy for defining the farm be established and once the farm is defined and can be verified/checked, there would be no need for any restrictions.

What are actual risks to the watershed of this proposal, what is the risk of subdivision of farms? (Cook replied that subdivisions are allowed; subdivision may result in farmers building a larger unit than they would otherwise because they could not build an accessory apartment).

Rob Brook – How would this affect people that would want to go into agrotourism to trying to attract people from other areas to come here and go to a farm in a bed and breakfast setting? (Bed and breakfasts are allowed with a conditional use permit).

Is this about making another right available to a farmer at a lower cost? (Cook stated yes, and that this is also a simpler way of doing it. Nothing else changes).

Marsha Arnold – If I own 180 acres (she does not, but is speaking hypothetically), and I am going to hire four people to work for me, am I only allowed a 750 sq. ft apartment and do I have to put four people in it? (She would not have to do this, but as the proposal is written, one accessory unit of limited size would be allowed). How would a larger unit be approved? (In the University Lake watershed, the rule is one (1) residential unit per lot since 1990 and a CUP is needed for approval of the subdivision. She could go through a conditional use permit to subdivide and build something bigger. Some existing lots have more than one dwelling that predates the 1990 LUO provisions). Does it jeopardize the use value of the property to subdivide it? (Would depend on the size of the lots and the uses to occur on them that result from the subdivision, but staff will check with the tax assessor's office).

Wayne Lacock – What is needed for his daughter to build a house on his 100-acre property on the shores of University Lake? (Referring to the Table of Permissible Uses, in the WR zoning district, only single family detached residences, one dwelling unit per lot (use 1.110) are allowed. The minimum lot size is 5 acres. If a lot existed prior to May 15, 1990, it is allowed up to five, 2-acre lots and the rest have to be five acres in size).

What is a lot? (Lots are tracts of land that are legally described; they may be 5 acres, 10 acres, or 100 acres. At the same time, the property owned by a single person, family or other entity may include several different "lots." The need to subdivide, or not, in the WR district can be clarified through a review with staff of the information on an individual's property). Poulton stated that this text amendment is only about property in the watershed.

Cook moved that the text amendment be adopted as written and Fritz seconded the motion. Barton called for comments and questions. Shoup offered the comment that he feels this board is being used as a political tool to make a change of something that has already happened to fit their own needs. Shoup described his background in farming. It seems that everywhere except the watershed allows accessory dwellings and we have a watershed issue where someone built something that did not meet community's rules and guidelines. Doesn't like government, but doesn't like people to use government in their own best interest? Is that what is occurring here? (Cook replied that Planning Board saw this as a conditional use permit application, Planning Board members thought the application was voluntary and knew nothing about the background information and they still have not been fully informed). Majority of discussion does not pertain to people in the audience and they did not know this until tonight. The change appears to be for an individual's benefit and not in the interest of the rest of the community. Has the issue of the property that came before the Planning Board been resolved? (CUP was granted; the plat has not been recorded, so the issue has not been fully resolved).

Poulton would like to know about how many in Carrboro, how many in the watershed that Carrboro is responsible for; Clinton suggested that research should include trends in farming that might include changing needs for workers, et cetera; Paulsen indicated that the proposal needs additional research before moving forward. McGuire described that, per the LUO, staff responds to Planning Board requests for text amendments and then forwards a draft ordinance to the Board of Aldermen. The Board of Aldermen decides on the next steps. Would staff research some of the issues (# of apartments, et cetera) that have been raised? (Staff would respond to specific questions and would evaluate the benefits and limitations of the proposal in order to draft an ordinance that accomplished what the Planning Board had requested; some research would be involved).

Clinton asked for the vote to be called. Other alternatives included withdrawal of the motion or amendments to the motion. Outstanding questions were noted: is there a disproportionate burden to farmers (in the Ulake watershed?); is it enforceable? What is a farm? Can you tell if a bona fide farm is continuing to be a farm? How many accessory dwellings should be allowed? What is the correct size and number of units? What is the effect/impact on the watershed? What is the tax implications when/if it stops being a farm? What is the tax status of it from that point forward? How can properties stay in use value? How many property owners will this have an impact on?

Cook withdrew the motion and noted that she would prefer to ask staff for further research. Barton asked if staff has the resources to spend any time to answer these questions. (Staff could answer some of these questions, but would need to clarify others before being able to answer. The Planning Board reviewed the Top Ten list at its last meeting and has seen the workload for the rest of this year. The typical time frame for processing text amendment requests is 4-6 months).

Barton stated that the PB had two choices: propose directly as a text amendment (Cook re-makes original motion or a new motion is entertained) or seek answers to questions and articulate a request for a text amendment based on answers. PB members discussed seeking additional input from farmers in the watershed and considered the petitions that had been submitted. At the request of the Board, McGuire read the statement from each petition:

- (1) To assist with preserving the few remaining Carrboro area farms, we, the undersigned residents of incorporated Carrboro and of its extra-territorial jurisdiction [ETJ], herewith ask the Carrboro Board of Aldermen to amend the Carrboro Land Use Ordinance so as to allow property owners having at least ten acres of land within Carrboro's planning jurisdiction to have an "accessory" caretaker residence [as defined, being less than 800 sf], similar to those allowed for farms within Orange County and other municipalities throughout NC, regardless of the zoning district in which the property lies and without requiring further subdivision of farm properties. April-May 2009 (55 pages/630 signatures).
- (2) Petition seeking implementation of a Carrboro "Farm Code" within three months of February 17, 2009. Petition seeking postponement of fertilizer amendment until a Carrboro "Farm Code" is implemented. (1 page/18 signatures)

Some concern that signers of the first petition were not aware the request dealt only with the University Lake watershed was expressed.

Cook re-made the original motion to forward a request from the Planning Board for this text amendment, with questions, and Fritz seconded it. VOTE: Ayes: (4) Barton, Carnahan, Fritz, and Cook; NOES: (7) Bell, Clinton, Paulsen, Poulton, Shoup, Warner, and Seils ABSTENTIONS (0); ABSENT/EXCUSED (0).

Mayor Chilton invited all farmers to meet with him in Room 100 at the conclusion of the PB meeting.

IV. OLD BUSINESS

A) Action on Sustainable Neighborhoods Proposal – Paulsen moved that the old and other business be deferred to the May 21, 2009 meeting; seconded by Carnahan. Approved 11-0.

V. OTHER BUSINESS – Reports and Proposals for future PB agenda scheduling

A) Carnahan noted that he would like to talk about barking dogs, tethering, and the Town's noise ordinance provisions. Barton requested brief reports on Congressman Price's Smart Growth meeting and a community meeting on Carolina North from members who had attended. Poulton would like to put Farm Code on the PB 'To Do' list. McGuire highlighted upcoming activities in the PB meeting calendar (among them are: Carolina North Public Hearing, Bike Month, Bolin Creek greenway planning). Barton asked whether a PB representative is needed for the Colleton Crossing public hearing on May 19th. Cook stated that she is going as a private citizen.

VI. ADJOURNMENT- There being no further business, Clinton moved (Paulsen and Fritz seconded) to adjourn at 21:38 p.m. Support was unanimous.