

**MINUTES OF THE MINT HILL PLANNING BOARD  
TOWN OF MINT HILL, NORTH CAROLINA  
February 19, 2007**

The Mint Hill Planning Board met in regular session on Monday, February 19, 2007 at 6:30 p.m. in the John M. McEwen Assembly Room, Mint Hill Town Hall.

**ATTENDANCE**

Chairman: Tony Long  
Members: Jack Bryan, Roy Fielding, Jef Freeman and Donnie Walters  
Commissioner: Brenda McRae  
Planning Director: Lee Bailey  
Planner: John Hoard  
Deputy Clerk: Doris Miller  
Absent: ETJ Member, Tom Gatz

**CALL TO ORDER AND INVOCATION**

Chairman Long called the meeting to order at 6:30 p.m., ruled a quorum present and the meeting duly constituted to carry on business. Mr. Freeman offered the invocation.

**ORDER OF BUSINESS**

**Additions, Deletions or Arrangement of Agenda Items:** None.

**Communications:** Mr. Bailey gave an update on the actions of the Board of Commissioners of February 8, 2007 as follows: Approved Conditional Use Permits: CUP06-2 filed by McKim and Creed for Carolinas Healthcare System to revise the original Conditional Use Permit to reflect an increase in the total square footage of the building on Blair Road; CUP06-5 filed by MCA Architecture for Novant Healthcare to revise their site plan and elevations on Hawthorne Drive; Approved Special Use Permit SUP06-8 filed by Jim Leslie for Idlewild ARP Church to allow a church in a residential district on Brief Road with a waiver to delay road improvements (left turn lane) until a later phase of the project; Denied: Special Use Permit SUP06-9 filed by Andrew Queen for T. K. Browne Construction, Inc. to convert an existing residential house into an office, based on the requested waivers from the Downtown Overlay Code; Received and set a public hearing date and time of March 8, 2007 at 7:15 p.m. for a petition filed by Jack O'Rourke and OTN Investments, Inc. and OPP No.1, LLP requesting rezoning from B-G to B-P(CUD) for property located at the intersection of Idlewild and Matthews-Mint Hill Roads. Another public hearing would more than likely be called for the up-coming Board of Commissioners meeting for March 8, 2007 at 7:00 p.m. for the post construction ordinance, which went along with the Phase II stormwater permit.

**Approval of Minutes of Regular Meetings of January 22, 2007:** Upon the motion of Mr. Bryan, seconded by Mr. Freeman and unanimously agreed that the minutes of the regular meeting of January 22, 2007 be approved as presented.

**Reports of Committees, Members and Staff:** None.

**New Business**

**A. Discussion and Recommendation on Conditional Use Permit, CUP07-1 Filed by Portrait Homes For Elevation Approval on Existing Townhome Lots on Kempton Square South, Coventry Commons Drive, Brighton Park Drive and Whitehawk Hill Road in the Brighton Park Community:** Mr. Hoard gave background information regarding a request filed by Portrait Homes for the elevation approval for townhomes on lots located on Kempton Square South, Coventry Commons Drive, Brighton Park Drive and Whitehawk Hill Road in the Brighton Park Community (copy in file). This information included aerial photographs and maps showing the existing zoning and development patterns around the project site. The townhome lots were adjacent to both single-family and commercial developments. Staff offered an unfavorable recommendation due to the requirements specified in Section 4.3.2.A.1 of the Downtown Overlay Code regarding porches. They did not believe the proposed elevation was detrimental to the community. The Code required porches to extend 50% of the facade and be 6 feet deep. The porches were 6 feet deep, but did not extend 50% of the facade.

*Questions/comments from the Board included: (1) Did the previous developers plans meet the Code?* Mr. Hoard said it appeared that 50% of the facade for the porch had always been in the ordinance and he assumed a waiver had been granted at the time Lenar Homes [previous developer] (because they did not have porches) had gotten their permits for the townhomes already built. By showing the elevations, the applicant was aware they did not meet the ordinance and by application was asking for a waiver from the 50% requirement.

Mr. John Frye, Portrait Homes, said he had discussed this with Mr. Hoard and had submitted the Sketch Plan in December and had revised it based on comments from him. He had sought advice from architectural colleagues to get recommendations as to how to meet the requirements based on the federal style of the homes they were trying to incorporate into the style they were trying to bring into this development. They had given them a professional opinion that a porch that took up 50% of the facade was not consistent with the federal style. He had one other recommendation from an architect and had consulted with David Creech but he had asked, since he was associated with the Town in a different frame, that the consultation would come on behalf of the Town as opposed to them. In a technical aspect, he was requesting a waiver of the porches, similar to what Lenar had built there already.

*(2) What happened if the Board and elected officials did not approve this? What would it do to the applicants project?* Mr. Frye said it would send them back to the drawing board because for the federal style he would have to redraw the entire front elevations and attempt to still meet the brick requirement which was incorporated.

*(3) In looking at the elevations, they seemed to be different widths, did they all fit on the lot and was there a reason the re-platting was not done with this request?* Mr. Frye said the lots were similar in size but some may have different widths. They were approximately 20 ft. lots. They would have to re-plat the existing lots and reduce the density from 69 lots to 45 in order to give them, not three

story tall units, but shorter two story units with rear car garages. Re-platting would have to come back to the Board for approval. They wanted to see if the waiver would be granted first and the expense of the engineers, etc. weighed into it. They were trying to consult with the existing engineer firm that did the previous site work.

*(4) The existing buildings referenced had not been selling very well, why would they continue to conform to that facade versus what the Code called for, which was single-family homes with porches as they had in the same neighborhood. If they came in, then decided it wasn't going well for them and the applicant "bailed" out as their predecessor did, they would still have units sitting there that were not adaptable to the market. The Code was being ignored and going with another "federal" did not mean anything to Mr. Bryan. Mr. Frye said they did not believe the condition of the facade was what was keeping that product from selling. They believed it was because it was a three-story building that was 20 ft. wide. They do not build that type product and steered away from it because other similar products in other areas had not moved very easily. It was popular in other parts of the country, but not here. In the 25 years Portrait had been in the Charlotte-Metropolitan area, they had not pulled out of a subdivision. They had a long-standing history here and had stood behind their product, even after they were built. This was a new adventure for them. They had products with and without front porches and they sold equally well.*

**Upon the motion of Mr. Freeman, seconded by Mr. Fielding and unanimously agreed, that an unfavorable recommendation be made to the Board of Commissioners regarding CUP07-1 filed by Portrait Homes for elevation approval on the existing townhome lots on Kempton Square South, Coventry Commons Drive, Brighton Park Drive and Whitehawk Hill Road in the Brighton Park Community based on Staff's finding that it did not meet current Code.**

**B. Discussion and Decision on SS07-1 Filed by Richard A. Peniston for Rousseau Estate; 3 Lots, One Without Road Frontage, Property Located at 8008 Truelight Church Road; Tax Parcel #137-051-19:** Referencing his February 15 2007 memo to the Board (copy in file), Mr. Hoard presented information regarding Small Subdivision #SS07-1 filed by Richard A. Peniston for the Rousseau Estate; 3 lots, 3.51± acres (one lot contained the existing house). The plat indicated a 22 ft. driveway easement for the lot without road frontage for the property located at 8008 Truelight Church Road; Tax Parcel #137-051-19. The plat met the requirements of Section 14. *Standards of Design - Lots* with a 15 ft. easement and a two acre lot. He recommended approval with the following requirements: (1) Retain as many trees as possible. (2) Submit a Final Plat to Staff for approval. He cautioned that the disadvantages to lots with no road frontage served by exclusive easements were: lack of utility extensions, i.e., water and sewer, garbage collection and possible conflicts with adjoining property owners.

**Upon the motion of Mr. Freeman, seconded by Mr. Walters and unanimously agreed, that SS07-1 filed by Richard A. Peniston for the Rousseau Estate; 3 lots, one without road frontage for property located at 8008 Truelight Church Road; Tax Parcel #137-051-19 be approved with the following conditions: (1) Retain as many trees as possible. (2) Submit a Final Plat to Staff for approval.**

**C. Discussion and Decision on S07-2 Filed by R T Land Development for Preliminary Approval of Olympus Subdivision; 25 Lots, Property Located on Lebanon Road; Tax Parcels #135-263-01 and #135-263-24:**

Mr. Hoard stated the applicant, R. T. Land Development, was presenting a request for major subdivision #S07-2 filed by R. T. Land Development for preliminary approval of Olympus Subdivision; 25 lots for property located on Lebanon Road; Tax Parcels #135-263-01 and #135-263-24 (see memo dated February 12, 2007 in file). The property contained a total of 19.18 acres and the plans indicated this subdivision would be served with public water and sewer, allowing 20,000 sq. ft. lot standards to be used, which these plans met. Interior streets met the standards for the local residential street cross section. Mecklenburg County Land Use and Environmental Services Agency would review the Preliminary Plans for sedimentation and erosion control, storm water, flood and road profiles. The developer was responsible for submitting these plans to Mecklenburg County and providing a copy of the plans to the Town upon request. Bonds would need to be posted with the county for the improvements in the subdivision. The Preliminary Plan was designed in accordance with Staff's Sketch Plan comments.

Staff recommended approval with several corrections and conditions (see motion)

*Questions/comments from the Board for Mr. Hoard included: (1) The site drawing in the upper left of the vicinity map was incorrect. On page C4, the lot delineations and extent of S.W.I.M. buffers, regarding the 100 year flood elevation plus 2 ft., were they allowed to build in a 100 year flood elevation? The culvert under the Old Oak Lane extension, backed up. Lots 2, 3 and maybe 4 were virtually covered by the 100 year elevation. He was aware of the need to correct the vicinity map, it would be corrected. The Town's current Ordinance did not allow them to build within the flood plain area. These lots would not be buildable if they were in the flood plain. This should not be referenced as the 100 year flood, it was in a S.W.I.M. buffer and they could build in that. (2) Could you cross S.W.I.M. buffers, i.e., in Lots 18 and 19? Yes. It was costly, but they had a really good idea to have a shared access on the side of Lot 25 instead of having to cross the creek. (3) S.W.I.M was spelled incorrectly on the drawing. (4) Were there any negative impacts, pro or con, to the properties which backed up to this property on Morris Farm and Old Oak or had it been situated so that all of a sudden someone had a back yard in their side yard type thing? The conversations he had with many of the people out there was that they liked this plan, with larger lots and seemed to be happy with it. There were concerns with the connection, i.e., possible cut-through traffic and conservation developments with smaller lots and what kind of houses were going to be built. The people that had seen the plan seemed to be pleased with it. (4) They were dealing with a hill and valley, was there a dangerous ingress/egress to Lebanon Road. They had to deal with a hill and valley? It was tough for people living across from this to get out on Lebanon Road, the 35 MPH speed limit was ignored. Mr. Hoard said his opinion was that there were going to be more cars out there and more people living out there. It should not cause any dangerous situation but also, there were other people, engineers and NCDOT, who had to be involved in this and it had to meet certain standards.*

**Motion was made by Mr. Freeman, seconded by Mr. Bryan and unanimously agreed, that major subdivision #S07-2 filed by R.T. Land Development for Preliminary approval of Olympus Subdivision for 25 lots for property located on Lebanon Road; Tax Parcels #135-263-**

**01 and #135-263-24 be approved inclusive of the layout of the cul-de-sac as shown due to topographic limitations of the site and with the following Staff corrections/conditions: (1) Retain as many existing trees as possible. (2) The developer justified the proposed cul-de-sacs to the Planning Board. (3) All utilities shall be located underground. (4) Stubbed streets shall be barricaded. (5) Curb/gutter, planting strip and a minimum 5 foot sidewalk is required along Lebanon Road from property line to property line. (6) Mint Hill's approval is contingent upon engineering approval from Mecklenburg County Land Use and Environmental Services Agency and NCDOT, this includes the design of the proposed turn lane on Lebanon Road. (7) Preliminary approval is contingent upon approval for public water and sewer from Charlotte-Mecklenburg Utilities.**

**D. Discussion and Decision on S07-3 Filed by Mint Hill Village for Preliminary Approval of 2 Lots, Property Located on Matthews-Mint Hill Road:** Mr. Hoard used his February 16, 2007 memo to give background information regarding a request filed by Mint Hill Village (S07-3) for Preliminary approval of two lots for property located on Matthews-Mint Hill Road (copy in file). The applicant was now requesting approval of their third preliminary plat. This was a result of the proposed new property line that would divide the parcel originally created with the first preliminary subdivision (Mint Hill Village Lane). With the addition of the new lot, Staff required the applicant to go back to the Planning Board for Preliminary Subdivision approval. Mr. Hoard recommended approval.

*Questions/comments from the Board for Mr. Hoard were: (1) How did this affect the driveway? Chairman Long answered that there would be three curb cuts.*

*(2) What were the pluses and minuses in not bringing in the out-parcel? Mr. Hoard did not see any difference.*

*(3) Had there been any modifications of the site plan, assuming what was driving these changes was either an ability or inability to lease the space out, based on what they thought they were going to be able to do? They were having to come back and absorb the out-parcel into a larger tract. There was probably going to be a completely different look than what may have been seen by the Town before. Mr. Hoard said they had done some changes, but no major ones. The parking lot had changed somewhat and they had added loading areas. He was not sure why the out-parcel was absorbed. The Town would look at this again to see what it would look like. The revised plans had been reviewed by Staff and the county was now looking at them. He had talked to Mr. Tony Pizzo and all the revisions would be submitted and this would be the plan to be used for all future building permits for the entire site.*

*(4) Was the first curb cut still going to be vital to what they were doing? They would have to go through site plan approval for the Hawthorne Pizza and they were still relying on the curb cut.*

*(5) Did they have plans pretty well "written in stone" for what they were going to do with that parcel as far as what they were going to build on it? Was the design changing schematically so the parcel being absorbed was not going to have the proposed building on it? No, it was just not going*

to be an out-parcel. The new design for the building looked good and would not be detached from the others. It would be attached to the main buildings up front and he thought it would fit more with the Downtown theme.

*(6) If they received an offer for the out-parcel, would they have to come back and reverse what they were asking for here? They wouldn't have to come back to this Board. With this Preliminary approval they are allowed to move to their Final Plat process, which was preparing their record map. If they changed their minds tonight, they would just not record the plat. The only time a Preliminary Plan had to come back to the Board was if Staff felt there was significant change in the road layout or if there was an added lot.*

**Upon the motion of Mr. Freeman, seconded by Mr. Fielding and unanimously agreed, that S07-3 filed by Mint Hill Village for Preliminary approval of 2 lots, property located on Matthews-Mint Hill Road be approved as presented.**

**E. Discussion and Decision on Revised S05-12 Filed by Bains Farm, LLC/Cheval Subdivision, Approval of Entrance-ways, Gates and Monuments; Property Located Between Lawyers and Thompson Roads:** Mr. Hoard said this was the first case presented for the approval of monuments since the adoption of the ordinance. In future, these should be presented with Preliminary Plans.

According to a memo dated February 15, 2007 (copy in file) written by Dana Goins, the applicant, Keith Paris, for Cheval Subdivision (formerly Bain Farm Equestrian), located on Lawyers and Thompson Roads was requesting approval of an entrance monument. The language of the Ordinance was included in this memo.

*Mr. Freeman asked could they assume, with further monumentation requests, they would not be accompanied by a Staff recommendation? The only issue he thought they had with this was the line-of-sight so there would be no potential road hazzard associated with them. This plan appeared to meet that. Mr. Hoard said they could do that if the Board wanted them to. It was the consensus of the Board that they would like Staff to make a recommendation on these requests.*

**Upon the motion of Mr. Freeman, seconded by Mr. Fielding and unanimously agreed, Revised S05-12 filed by Bains Farm LLC/Cheval Subdivision for approval of entrance-ways, gates and monuments for property located between Lawyers and Thompson Roads be approved as presented.**

**F. Discussion and Decision on Revised S05-19 Filed by Susan Harris/Siena Subdivision, Approval of Entranceway; Property Located on Lawyers Road:** Mr. Hoard presented a request to revise Major Subdivision #S05-19, for Siena, filed by Susan Harris/Siena Subdivision (formerly Southampton) to approve an entranceway monument for property located on Lawyers Road (see memo dated February 15, 2007 in file by Dana Goins).

*Mr. Fielding asked if there was a theme to go along with this structure? Mr. Hoard said there was with this one, it had a Tuscan Villa Courtyard with 49 homes.*

Mr. Steve Seeberg, owner of Siena Subdivision, addressed the Board saying they would have Tuscan style homes with a gate house, barn and a two acre vineyard in the community. Wine grapes were too hard to grow in this area, but they would have table grapes.

**Upon the motion of Mr. Freeman, seconded by Mr. Walters and unanimously agreed, that Revised S05-19 filed by Susan Harris/Siena Subdivision for approval of an entranceway for property located on Lawyers Road be approved as presented.**

During discussion of the motion, Mr. Freeman asked if these monuments would be dedicated to the Homeowners Associations and Mr. Hoard said that was part of the language that had been adopted in the Ordinance.

**Other Business:** None.

**Adjournment of Regular Meeting:** There being no further business to come before the Board and upon the motion of Mr. Fielding seconded by Mr. Freeman and unanimously agreed, Chairman Long adjourned the meeting at 7:20 p.m.

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Tony Long, Chairman

Doris H. Miller, Deputy Clerk