

Chatham County/Cary Joint Issues Committee Meeting Minutes
October 28, 2011
9:30 a.m.
Herb Young Community Center, 101 Wilkinson Avenue, Cary, NC

Present: Chatham County Committee Members Brian Bock and Walter Petty; Cary Committee Members Jennifer Robinson and Julie Robison

Absent: Chatham County Committee Member Pam Stewart

Various Chatham and Cary staff members attended.

Robinson called meeting to order at 9:44 a.m.

ACTION: Petty moved to approve the agenda; Robison provided the second; committee unanimously approved.
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The approved agenda follows:

9:30 a.m.

I. Call to Order

II. Approval of the Agenda

III. Approval of Minutes of August 30, 2011

9:40 a.m.: Plan Discussion

IV. Staff Presentation

- a. *Map Changes from August 30th Committee discussion*
 - i. *Inclusion of Riggsbee Property in Rural Buffer Boundary*
 - ii. *Shift of Rural Buffer Boundary south of Caley Wilson Road*
 - iii. *Change in land use on NC 751 for Conditional Use Zoning Request*
- b. *Plan Document Changes from August 30th Committee discussion*
 - i. *American Tobacco Trail Buffer requirement*
 - ii. *Additional Implementation Step for Voluntary Satellite Annexation Review Process*

V. Committee Discussion

- a. *Committee Endorsement of Joint Land Use Plan Map E*
- b. *Committee Endorsement of Joint Land Use Plan Document*

VI. Joint Land Use Plan Adoption Procedure Discussion

- a. *Options Recommended by Staff for Procedure*
- b. *Committee Discussion*

11:00 a.m.: Other Issues for Discussion

VII. Discussion of Committee Continuation

VIII. Adjournment

(Times noted above are approximate.)

Robison requested that the minutes of the last meeting be corrected to attribute correct comments to her and Mrs. Robinson. Staff will make these corrections.

ACTION: Robison moved to approve the minutes as amended; Bock provided the second; committee unanimously approved.

Ramage outlined Map E, which is attached to and incorporated herein as **Exhibit A**. After discussion, the committee agreed to change the entire area where the urban service boundary was extended south of Caley Wilson Road to low density residential.

ACTION: By unanimous consensus, the committee endorsed the final draft Plan Map E (to be known as “public hearing draft map”), with one change that is not currently shown, which is the portion of the area inside the rural buffer boundary lines south of Caley Wilson Road being changed from very low density residential to low density residential.

The new draft Plan Map E showing the above referenced change is attached to and incorporated herein as **Exhibit B**.

The draft Plan document is attached to and incorporated herein as **Exhibit C**. Chatham County Planner Ben Howell outlined the two minor changes to the Plan document from the August 30 committee meeting:

(1) American Tobacco Trail (ATT) buffer requirement, Page 3-9, Section 3.4.4: The second sentence of this section now states: New development requesting public services, such as water and sewer and/or annexation from the Town of Cary should provide a 50 foot natural buffer along either side of the ATT right-of-way.

Discussion on this item: Town of Cary Planner Scott Ramage stated Cary is currently processing a Land Development Ordinance (LDO) Amendment to clarify this buffer requirement. Howell stated while duplicative to the LDO, it may be helpful to keep this requirement in the Plan, which is the policy document. Robison suggested including a statement that the buffer requirement is in Cary’s LDO and then provide a reference to it. Robinson suggested stating in the Plan document that any properties developed along the ATT within the Town of Cary’s jurisdiction will adhere to the LDO’s requirements. She stated if the requirement changes in the future, then the LDO would only need to be changed vs. the LDO and the Plan document. Ramage stated staff will change the language in the Plan document to indicate that the buffer requirements of Cary’s LDO must be met. The committee concurred.

(2) Voluntary satellite annexation and voluntary annexation in the Plan area: The Chatham Commissioners want a process to review annexation requests in the future. Staff recommends a new section as shown on Page 6.6-2, Section 6.3 under the Implementation section and titled Citizen-Initiated Annexation Requests. The proposed language read: It is recommended that post-Plan adoption, the Town of Cary and Chatham County discuss whether and how the Board of Commissioners might participate in the review of citizen-initiated annexation requests that are either non-contiguous to the Town limits or that might cause an unincorporated developed area to be encompassed by the new Town limits.

Discussion on this item: The committee clarified that the proposal is not to address this issue at this time, but it does provide a commitment to continue the conversation. Howell stated the timetable shows this being one of the first post-Plan discussion items.

Plan Document Discussion:

Ramage stated staff will make minor housekeeping changes to the document to reflect the dates of the last two committee meetings. He stated staff will also update the acreage summary table to reflect the map changes made by the committee.

Robinson referenced the table of action items shown on Page 6.3. She wants to add to this table the issue of granting extra-territorial jurisdiction (ETJ) by Chatham County to Cary and find out when the county officials will be able to address ETJ. She stated there is some language regarding this on Page 2-5 as well. She proposed addressing this issue in 2012. Howell stated currently the document states that the Plan does not grant or recommend ETJ. He stated if the committee directs staff to add this to the Plan, then staff can add a new section regarding ETJ (i.e., 6.9), and staff can also add this to the implementation table.

Bock asked the negative consequences of doing this. Howell stated it would give citizens who live in the Plan area more understanding about what might happen. He stated towns generally control land uses in their ETJ with their ordinances. He added if Chatham County granted Cary ETJ in Chatham County, then Chatham County would be allowing the Town to rezone all the area, and all the Town's ordinances would apply in the Chatham County areas currently shown east of the rural buffer line.

Ramage outlined the process for a town receiving ETJ authority. He stated the town asks the county commissioners for ETJ; the county commissioners review the request and may grant the ETJ. He stated the Town has zoning control over its ETJ areas. He stated building permits and inspections are also handled by the Town in these ETJ areas. He stated in addition, all subdivision and site plan requests in an ETJ area are reviewed and decided by the Town. He stated homeowners who reside in an ETJ area do not pay municipal taxes. He added that state law requires ETJ representation on the Town's planning & zoning board (based on population balance). (The Town Council would recommend the ETJ appointee to the County Commissioners, and the County Commissioners would have approval authority of this appointee.)

Howell stated there have been some changes to state law in the past few years regarding ETJ authority. He stated staff would need to evaluate the state law closely.

Howell believes the committee will continue to meet to discuss other non-Plan related issues, and this could be a future topic.

Robinson stated this is an important topic. She stated it is important that development inside the urban service boundary actually develop to Town of Cary standards. She stated this will ensure that development in this area is compatible with surrounding developments in Cary.

Howell stated the area to the east of the rural buffer boundary is shown on the Plan as residential. He stated if the county continues maintaining planning jurisdiction over this area, then if a non-residential use were submitted, it would likely require Plan amendment. He stated the ETJ issue raised today is a new issue, and it could result in a more divisive Plan adoption process.

Bock does not think the Chatham Commissioners are willing to give up planning authority for this area. He also thinks their citizens will oppose the idea.

Robison thinks the issue needs to be addressed in the future, and her primary concern is that Cary must be able to plan for capital infrastructure in this area. However, she does not want this issue to stall the joint vision process.

Ramage stated on Page 2-5, the last sentence in the section under ETJ, reads: The Plan does not grant ETJ nor does it recommend a grant of ETJ to the Town of Cary or Chatham County. He stated this might be construed that the Plan recommends against granting ETJ to Cary. He suggested being silent on the issue by deleting this part of that section. He stated it could instead read: This Plan does not grant ETJ to the Town of Cary or Chatham County.

Robinson wants to be clear that the ETJ issue is important to Cary, because it is critical that Cary have the authority to fully execute the Plan. She agrees to have this future conversation instead of making it part of the Plan.

Ramage stated Section 6.3 currently recommends that post-Plan adoption include the discussion of voluntary annexation. He stated the committee may choose to include similar language about the ETJ issue, so it is clear that post-Plan adoption will include a discussion about ETJ. He stated this could, however, change the public discussion about the Plan.

The committee concurred with adding the language about ETJ being a future conversation and keeping it separate from the citizen-initiated annexation issue. They all agreed that a future conversation is warranted.

Howell summarized the committee's recommended Plan changes:

- (1) Update tables
- (2) Change ATT buffer language to remove language stipulating the 50 foot distance and instead require this buffer be consistent with Cary's adopted ordinances
- (3) In Section 2.5, remove the last phrase from the ETJ section; the sentence will read: The Plan does not grant ETJ authority to the Town of Cary or Chatham County.
- (4) Add an implementation step for post-Plan adoption that the Town and County will study and discuss the feasibility of granting of ETJ in Chatham County to Cary.

ACTION: By unanimous consensus, the committee endorsed the joint Land Use Plan document including the above four items.

The Plan document that will be presented a public hearings is attached to and incorporated herein as **Exhibit D**.

Discussion about post-Plan maintenance

Howell stated Page 2-6 of the Plan includes Section 2.7, which is the timetable and process for periodic reviews and updates. He stated staff kept this section broad to provide flexibility. He stated it calls for a review of the Plan at least once every five years to ensure it remains up-to-date and reflects any changes in policies and local and regional conditions and circumstances. He stated any update to the Plan will require the concurrence of both elected boards. He stated staff recommends the first review occur no later than 2017. He stated the Plan does not stipulate how this review occurs, and this will be a decision of the elected boards.

ACTION: By unanimous consensus, the committee concurred with the implementation recommendations recommended by staff (above).

Timeline discussion

Howell outlined the following timeline options, including the staff recommended option (which is Option 1):

Joint Land Use Plan Adoption Process

Town Process – Section 3.2.2 of Land Development Ordinance

- Two Public Hearings: Town Council and Planning & Zoning Board
 - Each public hearing requires published notice, 10 – 25 days in advance
 - Either Board may continue Public Hearing
- Planning & Zoning Board has 90 days from end of P&Z Public Hearing to make recommendation
- Town Council has 90 days from receipt of P&Z recommendation to make decision

County Process (use Text Amendment process from Zoning Ordinance)

- Joint Public Hearing with Board of Commissioners & Planning Board
 - Generally held during last BOC meeting of the month, only in January, March, May, July, September, November

- Public Hearing may be continued by Board(s)
- Public Hearing requires published notice, 10 – 25 days in advance
- Planning Board makes recommendation to Board of Commissioners
- Board of Commissioners adopt Plan

Board Meeting Days

- County and Town Boards meet on different days of the month:
 - Town Council – 2nd and 4th Thursday
 - Board of Commissioners – 1st and 3rd Monday
 - County Planning Board – 1st Tuesday
 - Town Planning & Zoning Board – 3rd Monday

Locations for Joint Meeting(s)

- Last Public Input meeting (June 2010) – Approximately 180 citizens attended
- No locations in Joint Plan area large enough for that many citizens
 - Location must also have seating for 7 Town Council Members, 5 Board of Commissioners Members and associated staff
- Past Public Input Sessions held at North Chatham Elementary School on Lystra Road

Joint Plan Adoption Options

Option 2A. One joint meeting, at end of process. Cary Planning Board acts before Chatham Planning Board.

1. Chatham County Commissioners and Planning Board hold public hearing
 2. Minutes, meeting broadcast tape, audio, or written summary of citizen comments and Planning Board, Commissioner comments, are produced and sent to Cary staff, for inclusion in Cary's staff report for the Cary Council hearing.
 3. Cary Town Council holds public hearing. (Perhaps Chatham Commissioner Chair could be present to summarize the hearing that took place in Chatham.)
 4. Cary Planning Board holds public hearing, then discusses and takes action.
- Now all the hearings are done -
5. Minutes, broadcast tapes, and/or summaries of the Cary Council and Planning Board meetings and action are sent to Chatham staff, and attached to the staff report for the Chatham Planning Board.
 6. Chatham Planning Board reviews plan and makes recommendations.

Optional step: Mayor and Chair request a Joint Issues Committee meeting to resolve any differences, prior to joint meeting

7. **Joint Meeting** of the Cary Council and Chatham Commissioners to take final action.

Option 2B. One joint meeting, at end of process. Chatham Planning Board acts before Cary Planning Board.

1. Chatham County Commissioners and Planning Board hold public hearing
2. Minutes, meeting broadcast tape, audio, or written summary of citizen comments and Planning Board, Commissioner comments, are produced and sent to Cary staff, for inclusion in Cary's staff report for the Cary Council hearing.

3. Cary Town Council holds public hearing. (Perhaps Chatham Commissioner Chair could be present to summarize the hearing that took place in Chatham.)

4. Cary Planning Board holds public hearing, then tables discussion and action.

- Now all the hearings are done -

5. Minutes, broadcast tapes, and/or summaries of the Cary Council and Planning Board meetings/hearings are sent to Chatham staff, and attached to the staff report for the Chatham Planning Board.

6. Chatham Planning Board reviews plan, makes recommendations. Minutes, summary, tapes sent to Cary.

7. Cary Planning Board reviews plan, makes recommendations.

Optional step: Mayor and Chair request a Joint Issues Committee meeting to resolve any differences, prior to joint meeting

8. **Joint Meeting** of the Cary Council and Chatham Commissioners to take final action.

Option 3A. Two joint meetings, one at beginning, one at end of process. Cary Planning Board acts before Chatham Planning Board.

1. **Joint public hearing:** Chatham County Commissioners, Cary Council (Chatham Planning Board?)

2. Minutes, meeting broadcast tape, audio, or written summary is produced, and included in Cary staff report to their Planning Board.

3. Cary Planning Board holds public hearing, then discusses and makes recommendations.

- Now all the hearings are done -

4. Minutes, meeting broadcast tape, audio, or written summary is produced, and included in Chatham's staff report to their Planning Board.

5. Chatham Planning Board reviews plan and makes recommendations.

Optional step: Mayor and Chair request a Joint Issues Committee meeting to resolve any differences, prior to joint meeting

6. **Joint Meeting** of the Cary Council and Chatham Commissioners to take final action.

Option 3B. Two joint meetings, one at beginning, one at end of process. Chatham Planning Board acts before Cary Planning Board.

1. **Joint public hearing:** Chatham County Commissioners, Cary Council (Chatham Planning Board?)

2. Minutes, meeting broadcast tape, audio, or written summary is produced, and included in Cary staff report to their Planning Board.

3. Cary Planning Board holds public hearing, then tables discussion and action.

- Now all the hearings are done -

4. Minutes, meeting broadcast tape, audio, or written summary of Cary Planning Board meeting is produced, and included in Chatham's staff report to their Planning Board.
5. Chatham Planning Board reviews plan, makes recommendations. Minutes, summary, tapes sent to Cary.
6. Cary Planning Board reviews plan and makes recommendations.

Optional step: Mayor and Chair request a Joint Issues Committee meeting to resolve any differences, prior to joint meeting

7. **Joint Meeting** of the Cary Council and Chatham Commissioners to take final action.

Recommended Adoption Option and Proposed Schedule

Staff-Recommended Option 1. No joint meetings of the elected bodies are necessary.

<u>Step</u>	<u>Approximate Date</u>
1. Public Hearing #1. Chatham County Board of Commissioners and Planning Board holds public hearing	Mid-January 2011
2. Public Hearing #2. Cary Town Council holds public hearing.	Late January 2011
3. Public Hearing #3 and Cary Planning Board. Cary Planning Board holds its public hearing, then makes its official recommendation.	February 2011
4. Chatham Planning Board Review. Board reviews plan and makes recommendations.	February-March 2011
5. Joint Issues Committee Meeting. Joint Issues Committee meets to resolve any differences between recommendations of the two planning boards; final review of public comments. Committee recommends a single, final plan to be sent to the Board of Commissioners and the Cary Town Council for adoption.	March-April 2011
6. Final Actions. Chatham County Board of Commissioners and Cary Town Council each take separate action on the final plan recommended by the Joint Issues Committee.	April-May 2011

ACTION: By unanimous consensus the committee concurred with Option 1 (as recommended by staff)

Ramage suggested a joint resolution by both boards as part of the plan adoption stating what both groups expect from the plan (i.e., both local governments will ensure zoning conforms with the Plan, stipulate both boards will consult each other about potential Plan changes, etc.).

ACTION: By unanimous consensus, the committee directed staff to prepare joint draft resolution language to be part of the adoption process, share it with the committee in advance of the next committee meeting, and place it on the next committee agenda for their discussion

Robinson adjourned the meeting at 10:51 a.m.