

MINUTES
CHATHAM COUNTY BOARD OF COMMISSIONERS
WORK SESSION
MARCH 07, 2011

The Board of Commissioners (“the Board”) of the County of Chatham, North Carolina, met in the Central Carolina Community Library, 197 Highway 87 North, located in Pittsboro, North Carolina, at 2:30 PM on March 07, 2011.

Present: Chairman Brian Bock; Vice Chair Walter Petty; Commissioners Mike Cross, Sally Kost, and Pamela Stewart

Staff Present: Charlie Horne, County Manager; Jep Rose, County Attorney; Renee Paschal, Assistant County Manager; Vicki McConnell, Finance Officer; Elizabeth Plata, Deputy Clerk to the Board; and Sandra B. Sublett, Clerk to the Board

Work Session

1. **Public Input Session**
2. **Resolution Honoring the Service of Emily Foushee:** Presentation and approval of Resolution Honoring the Service of Emily Foushee
3. **Fire Apparatus Access:** Discussion regarding fire apparatus access road requirements from the NC Fire Code and conflicts with the Subdivision Regulations
4. **Subdivision Regulations and Processes:** Discussion of staff recommendations and options for streamlining Subdivision Regulations and Processes
5. **Zoning Process:** Discussion of Options to Streamline the Zoning Process
6. **Discussion on LEED Certification Policy with Capital Construction Projects:** The Board of Commissioners heard comments and discussed LEED certification as it relates to county construction projects during their February 21, 2011 work session. The Board may further discuss this issue and provide staff with direction on whether to continue with LEED certification work in construction projects or pursue other efficiency options
7. **Chatham Conservation Plan:** Allison Weakley will give the Board of Commissioners a status report of work being done by the Chatham Conservation Partnership.

CALL TO ORDER

The Chair called the Work Session to order at 2:33 PM.

PUBLIC INPUT SESSION

Robert Sears, 454 Lewter Shop Road, Apex, NC, stated that he wanted to speak about the Wake County Partners line, noting that in his opinion, they gave it away too cheap. He said that Wake County would be coming across that County line, and said they had received only \$500,000 for a community center that it did not look like they would be able to use. Mr. Sears said since Wake County Partners had already spent about \$100 million, that was only about one-half of one percent and it appeared that the total cost would be upwards of \$350 million. He said that \$500,000 was about the amount of a rounding error and was no big deal.

Mr. Sears said they had also gotten no forced annexation, but that did not amount to much. He said that Commissioner Kost had tried to point that and other things out but the other Commissioners had not listened. Mr. Sears said the law would not have been on Wake County's side had they tried a forced annexation because the population was not dense enough. He said what would happen was that they would run the few people out because of the high taxes. Mr. Sears said he wondered why they had not just said they wanted to control all annexations. He said this was the best leverage Chatham County would ever have, but the Board had allowed them to be taken over and had gotten very little to show for it. Mr. Sears said he could not follow the thought process of why the Board had not demanded control of all annexations so that the County would have some say. He said they were now looking at joint planning and Cary was making lots of promises, but asked what would happen to them if they became a part of Cary. Mr. Sears said the answer was anything Cary wanted to do. He said he had attended many Cary board meetings and had seen them change zoning and density as it suited them, and you could not trust Cary.

Mr. Sears said in closing that he wanted to pay tribute to Mr. Bruce Ferrell who had died yesterday at the age of 95. He said he was a two-time County Commissioner in the 1950's and a World War II veteran.

RESOLUTION HONORING THE SERVICE OF EMILY FOUSHEE

The Chairman read the Resolution Honoring the Service of Emily Foushee in its entirety.

Emily Foushee thanked the Board for the recognition, noting that her time with the County had been a rich learning experience as they moved into the age of technology. She thanked them for allowing her to be a part of that and hoped she had met the challenge.

Commissioner Cross moved, seconded by Commissioner Petty, to adopt **Resolution #2011-14 Honoring the Service of Emily Foushee**, attached hereto and by reference made a part hereof. The motion carried five (5) to zero (0).

FIRE APPARATUS ACCESS

Jason Sullivan, Chatham County Planning Director, explained that the NC Office of the State Fire Marshal (OSFM) issued an informal interpretation regarding the enforcement of the NC Fire Code for one- and two-family dwellings and fire apparatus access roads in recent years. Staff has discussed this issue and determined there are conflicts with the Subdivision Regulations and NC Department of Transportation (NCDOT) minimum design standards. Staff is requesting direction from the Board of Commissioners on the direction to proceed with this item.

Mr. Sullivan said that in 2010, staff discussed the informal interpretations of the Fire Code issued by OSFM and the conflicts that exist with the currently adopted Subdivision Regulations. Based on those discussions, staff requested a formal interpretation from OSFM prior to proceeding with discussions with the Board of Commissioners. The request was for an interpretation of the applicability of the Fire Code to one- and two-family subdivisions and the applicability of the fire apparatus access road requirement for new subdivisions of land. The interpretation concludes that Section 102.10 of the Fire Code does not apply to the occupancy of one and two family dwellings, but does not exempt residential development of three or more lots from the requirements of section 503. Section 503 of the Fire Code addresses fire apparatus access roads and Section 503.2.1, Dimensions, specifies that "Fire apparatus access roads shall have an unobstructed width of not less than 20 feet (6096 mm), except for approved security gates in accordance with Section 503.6 and an unobstructed vertical clearance of not less than 13 feet 6 inches (4115 mm)." Section 503.2.3, Surface, also provides that "Fire apparatus access roads shall be designed and maintained to support the imposed load of fire apparatus and shall be surfaced so as to provide all-weather driving capabilities." Section 503.4, Obstruction of fire apparatus access roads, further provides "Fire apparatus access roads shall not be obstructed in any manner, including the parking of vehicles. The minimum widths and clearances established in Section 503.2.1 shall be maintained at all times."

Mr. Sullivan said there are multiple conflicts with the Subdivision Regulations based on this interpretation. The Subdivision Regulations allows for different road widths depending on the type of subdivision. Section 7.1(C)(1) requires that all roads, unless otherwise specified, "...must conform to the respective current standards of the North Carolina Department of

Transportation Division of Highway, except as provided.” The current NCDOT Subdivision Roads Minimum Construction Standards allows for an 18 foot-wide paved road for Local Residential Roads. Private roads for major subdivisions are also allowed to have a travel width of 16 feet with 4 inches of gravel (Section 7.2(D)(3)). Minor subdivisions up to three lots are allowed to be served by a 12 foot-wide gravel road and four lots are allowed to be served by a 16 foot-wide road (Section 7.4(B)(3)). Additionally, one additional subdivision lot that fronts on a perpetual easement or private road that existed prior to October 1, 1975 is allowed every 12 months (Section 7.4(B)(2)).

Mr. Sullivan stated that none of the roads allowed by the Subdivision Regulations meets the minimum road width requirements of the Fire Code and in many instances may not meet the load requirements. Additionally, it is staff opinion that to meet the Fire Code would require that all roads be engineered to meet the minimum load requirements and would require an engineer’s certification upon completion. This would include gravel roads serving three to four lots under the minor subdivision process.

Mr. Sullivan stated that the Board has several options to consider in addressing the inconsistency between the Fire Code and Subdivision Regulations. First, the Subdivision Regulations can be amended to require that any road serving three or more lots must meet the minimum Fire Code requirements. Second, the formal interpretation can be appealed as outlined in Attachment 1.

Mr. Sullivan provided the following slides as examples of roads that had been approved in recent years to give the Board an idea of how such roads looked within different subdivisions based on current standards, as well as provide some idea of what would have to be done to upgrade some of those roads:



Great Ridge Parkway North



Groveswood Ln.



Alley off of Groveswood Ln.



Hill Creek



22' Pavement; 26' Curb to Curb

Great Ridge Parkway South



14' Pavement; 16' to Curb; ~7' Disturbed beyond pavement

Creekwood



21' Pavement

Glen Turret Way



Speyside Circle



Speyside Circle



Caswell



West Camden



Horizon Dr.



Buck Branch (Private)



12' Gravel

Carolina Farm Way (Private)



18' Gravel

JC Corner Dr. (Private)



13' Gravel

Lois Ln. (Private)



Parker Herndon Rd.



Daisy Scurlock (Private)



Dark Oaks (Private)



New Salem (Private)



New Salem (Private)



Quartz Hill (Private)



Commissioner Petty asked who would happen if they just appealed it to the State Fire Marshal and let them work out the differences based on their understanding of the rules and regulations. Mr. Sullivan said they were trying to work with people as they came in to make them aware of the issue, and were telling them that if they were going to build something immediately, that they had a Fire Code interpretation that said it had to be built to the standard. He said if they were not going to build immediately, they had been trying to work with people to let them know the County had this issue and was trying to work through it, and whatever they built it would have to be built to meet the Fire Code. Mr. Sullivan said the reason they had been telling people that was because there was a regulation in the Subdivision Ordinance that said if there was a conflict with a more stringent requirement then the more stringent requirement prevailed. He said because there was a very specific standard for road width and the requirements for roads in the Fire Code, they did have a more stringent standard that would apply because of that interpretation by the State Fire Marshal.

Commissioner Petty asked what would happen to a subdivision that currently had a 16-foot or 18-foot entrance, in that would they have to bring that up to the current regulations. Mr. Sullivan said that was where it got tricky, noting they had presented that question to the State Fire Marshal. He said the interpretation said that any road that was installed prior to adoption or implementation of the Fire Code was exempt, but for any lot added after that, then a portion of that lot accessing the road would have to be upgraded. Commissioner Petty asked what would be gained. Mr. Sullivan said nothing would be gained from the access from the road to the lot, but you would gain better access on the road where the newly created lot touched that road.

Commissioner Kost said as an example, the 751 subdivision by the nursery had a road that dead ended, and they had not submitted any plans for the end of that road but they had said that eventually they wanted to build it out. She said she understood the original plan would be grandfathered in, but what kind of improvements would have to be made when they built onto that subdivision. Mr. Sullivan said it would have to be a 20-foot wide travel surface. He said they had a proposed 10-acre plus subdivision now where the proposal was to build a 16-foot wide paved road with two feet of compacted soil on either side that would meet the 20-foot wide travel surface the Fire Code required. Mr. Sullivan said so, a road would have to be either 20-foot wide or constructed so that there was a 20-foot all-weather travel surface. Commissioner Kost said but that would be only for the new section; not the existing road. Mr. Sullivan said that was correct.

Commissioner Petty said there would be a 13-foot wide gravel road feeding into a 20-foot wide. Mr. Sullivan said that was correct, but there were other implications that came into play. What he had wanted to bring to the Board tonight was the existing conflict, noting that there was a conflict at the State level as well. He explained that there was an NCDOT design manual that allowed for an 18-foot wide road, and the State Fire Code stated that the road had to be 20-foot wide.

Commissioner Kost asked when the standard was adopted. Mr. Sullivan said the interpretation was that it had always been in the Code but for whatever reason it had not been interpreted that way State-wide. The Office of the State Fire Marshal had said in 2008 or 2009 that the Code as it was written applied to roads serving three or more buildings, but there was no change in the regulations. It all hinged on the issue of the exemption where it said that it did not

apply to occupancy of more than two-family dwellings, and therefore, it did not apply to inside the house but it applied to everything outside the house.

Commissioner Petty said it was difficult to make a decision when there was so much conflict among the various agencies. He would understand if it said all new construction from now on would have to adhere to the regulations, but what did they gain if the road going into an area that had been there for years did not have to change. As well, what happened if the County appealed until the State settled its conflicts and they could see how things settled out. Mr. Sullivan replied he would have to defer to the County Attorney on that or perhaps talk to the Office of the State Fire Marshal. He was not sure that they could hold off enforcing the 20-foot standard, particularly for new development.

Commissioner Kost asked what the Fire Marshal's thoughts were from a public safety standpoint. Tom Bender, Chatham County Fire Marshal, said the Fire Codes were effective July, 1991, and he had come to Chatham County in 1993 as the first code enforcement official on the Fire Code. As far as the applicability of the Fire Code to one and two-family dwellings, he like many other fire code officials across the State, did not see that interpretation in the Code and had never thought that it was applicable to residential occupancies since much of the Fire Code was designed towards commercial endeavors. He had become aware of it only when he had received the first notification of its applicability, and he had forwarded that to the Planning Director. It had recently come up again in Cary when the city had posted "No Parking" signs in a subdivision every 50 feet. At a recent State Fire Marshal's meeting, he had been asked what he was enforcing in Chatham County, and his reply was that he had not believed it was applicable. He had been told that it was, so he had requested to address the fire marshals at the meeting and had asked them how many had found that regulation to be applicable to residential dwellings. Only one-third of the fire marshals had raised their hands, so he asked how many were applying and enforcing that regulation, and again only one-third raised their hands.

Mr. Bender said this was a regulation that had not been widely known by County fire marshals, although he believed that cities may have dealt with it to a higher degree. If they had been made aware earlier that it was applicable and should be enforced, they would have done so. As it stood now, the interpretation was what they had to look at and either decide to accept that or appeal it. He said for information purposes, Chatham County's fire trucks were 96 inches wide, with one that was 100 inches wide. They had visited some of the smaller subdivisions and multi-housing units and the trucks could not make it into the area without running tires up onto curbs and putting the platform into trees, and unfortunately curbs destroyed fire truck tires.

Chairman Bock said basically what the Board was being asked was whether they wanted staff to go back and look at all the different issues, or whether the Board wanted to appeal the interpretation. Mr. Sullivan said that was correct, adding this was not a unique situation for the County in that it was an issue all over the State. It just happened that they were the first jurisdiction to identify where the conflicts were and realized that it needed to be addressed.

Commissioner Petty stated it would be difficult to enforce and decide where to draw the line when it was so unclear that they had 70% of fire marshals across the State saying they did not believe it was applicable. He tended to side with the 70%, and recommended that they appeal the interpretation until the other agencies could get clear direction.

Commissioner Petty moved, seconded by Commissioner Cross, to repeal the interpretation.

Commissioner Cross said that the appeal should be copied to all others who might be in the same position.

Commissioner Petty said he did not believe the regulation was needed in certain areas, but it was not clear enough at this point to make a decision to enforce it. With their fire trucks and equipment at risk he understood the concern, but he believed it would create even more confusion to try to go back and change ordinances already in place when there were still conflicts in the regulations.

Commissioner Kost said she supported appealing it, but her concern was that the appeal process could take some time and what did they do in the meantime. Mr. Sullivan responded he

would work with the County Attorney and determine how that process would work as far as enforcement.

Jep Rose, County Attorney, agreed that would be the proper way to proceed.

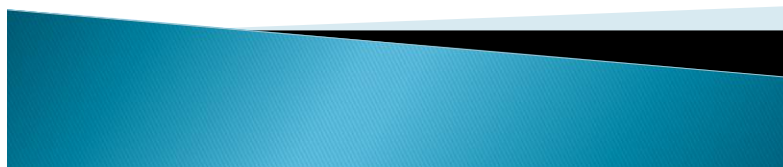
Chairman Bock called the question. The motion carried five (5) to zero (0).

SUBDIVISION REGULATIONS AND PROCESSES

Mr. Sullivan discussed staff recommendations and options for streamlining subdivision regulations and processes. He offered the following PowerPoint presentation:

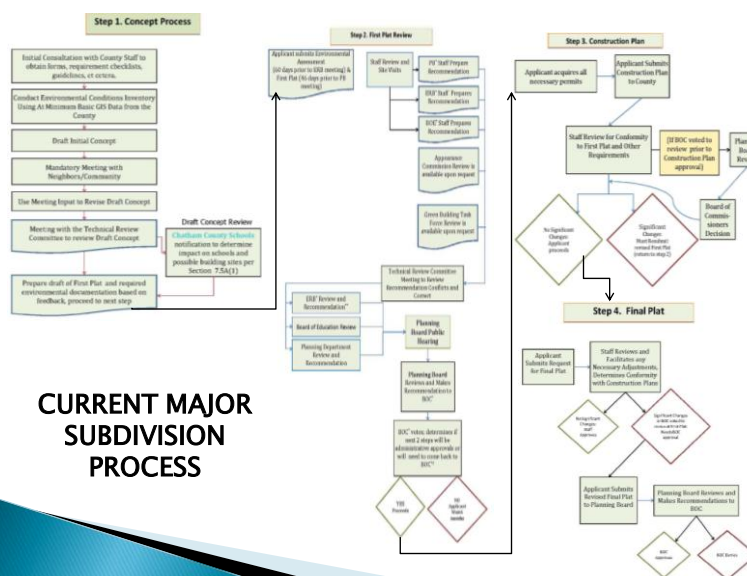
Streamlining Processes

Subdivision Regulations & Zoning Ordinance



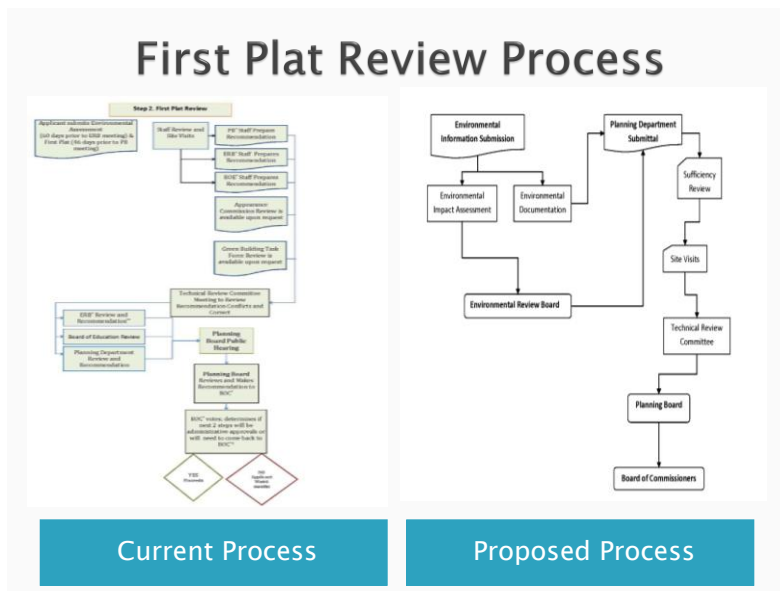
Agenda

- ▶ Subdivision Regulations
 - Major Subdivision Process Streamlining
 - First Plat
 - Construction Plan
 - Final Plat
 - Other Items
 - Non-residential Subdivisions, Financial Guarantees, Road Maintenance, Lots for Bona-Fide Farm Uses
- ▶ Zoning Ordinance
 - Rezoning Process: Conditional Use Zoning vs. Conditional Zoning
 - Change to Conditional Zoning process or amend Conditional Use Zoning process



Subdivision Regulations Process Streamlining

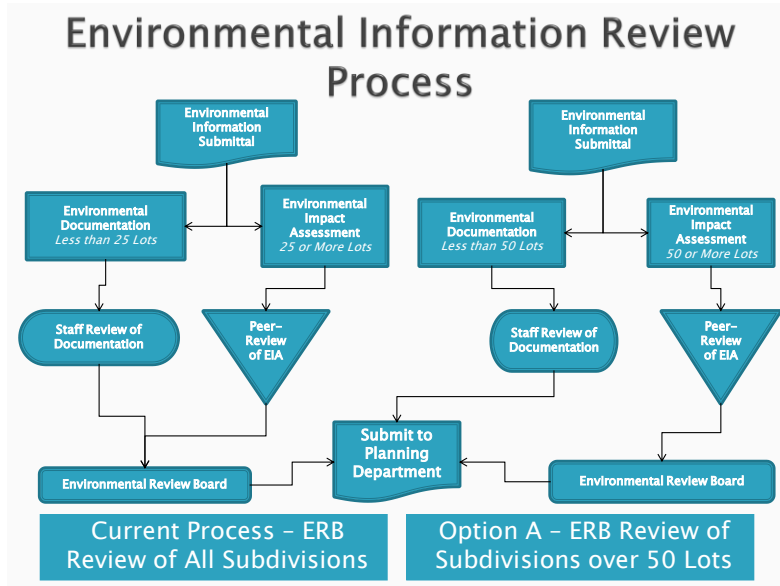
- ▶ Concept Plan
 - No Change
- ▶ First Plat Process
 - Environmental Impact Assessments & Environmental Documentation
 - Planning Department Submittal & Staff Review
 - Planning Board Review
 - Board of Commissioners Review
- ▶ Construction Plan & Final Plat Review
 - Administrative Review



Environmental Review Process

- ▶ Current Requirements
 - Environmental Impact Assessment Threshold: 25 Lots or More (*Under 25 Lots, Environmental Documentation*)
 - EIA is Peer-Reviewed (Cost Borne by Applicant)
 - ERB Reviews regardless of EIA or Documentation
 - Minimum 60 Days for Review; Maximum 120 Days
- ▶ Proposed Changes
 - Environmental Impact Assessment Threshold changed to 50 Lots or More
 - 2005-06 Case Study: 10 of 50 Subdivisions had 25-50 lots
 - Minimum 30 Days for Review; Maximum 60 Days
 - Three Options for Environmental Review proposed by Staff - EIA review by ERB, EIA review by staff, no EIA





Environmental Review Options

<ul style="list-style-type: none"> ▶ Option A - 30-60 Days <ul style="list-style-type: none"> ◦ ERB only reviews EIAs for subdivisions over 50 lots ◦ Environmental Documentation reviewed by staff - completed 30 days after submittal ◦ EIA is submitted 30 days prior to ERB Meeting ◦ EIA is peer-reviewed (<i>Cost borne by applicant</i>) ◦ Staff forwards peer-review to ERB - ERB has 2 meetings to make recommendation on EIA ▶ Keeps existing framework 	<ul style="list-style-type: none"> ▶ Option B - 30-60 Days <ul style="list-style-type: none"> ◦ No ERB Review ◦ EIA still required for 50 or more lots ◦ EIA is either reviewed by staff or peer-reviewed by Consultant ◦ Maximum 30 days for Documentation review ◦ Maximum 60 days for EIA review ▶ Option C - 30 Days <ul style="list-style-type: none"> ◦ No EIA requirement; No ERB ◦ Documentation only
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Option A

Option B & Option C

Direction for Staff - Environmental Review Process

- ▶ **Choose one of the following Options:**
 - Option A - ERB review of EIA; 30-60 days for review
 - Option B - No ERB review; Peer-review or staff review of EIA; 30-60 days for review
 - Option C - No ERB review; No EIA required; Environmental Documentation only; 30 days for review

- ▶ **If Option B is chosen:**
 - Peer-Review of EIA or Staff review?
 - Allow 60 or 30 days for EIA review?



Planning Board Review Process

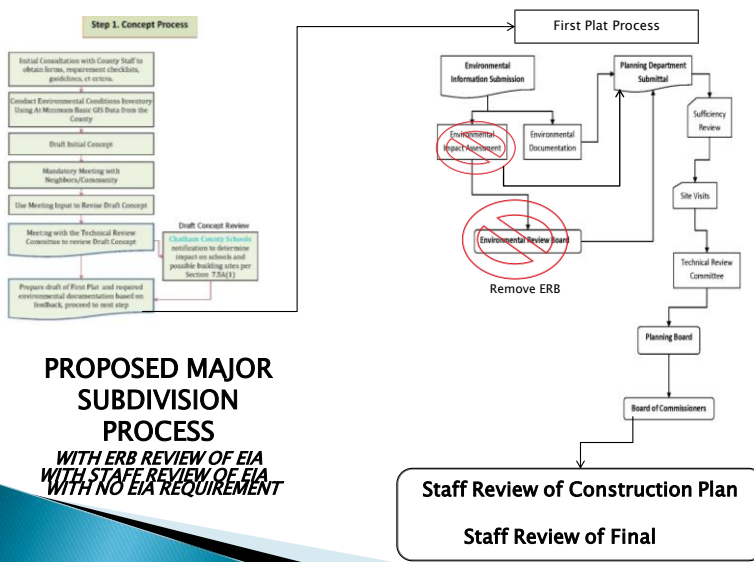
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|--|---|
| <ul style="list-style-type: none"> ▶ Submit application 46 days prior to PB Meeting ▶ During 46 days: <ul style="list-style-type: none"> ◦ Site Visits (3 Days/Times) ◦ ERB, BOE, GBASE, Appearance Commission ◦ Technical Review Committee ◦ Notification to Neighbors ◦ Follow-up ERB, BOE review ▶ PB Public Hearing ▶ Planning Board review <ul style="list-style-type: none"> • PB chair may postpone once • 3 meetings to review ◦ Review in 46-136 days | <ul style="list-style-type: none"> ▶ Submit application 45 days prior to PB Meeting ▶ Application sufficiency review within 14 days ▶ During next 31 Days: <ul style="list-style-type: none"> ◦ Site Visits (2 Days/Times) ◦ Technical Review Committee ◦ Notification to Schools ◦ Notification to Neighbors ◦ No advisory board review ▶ One postponement by staff ▶ No PB Public Hearing ▶ Planning Board has 2 meetings for review <ul style="list-style-type: none"> ◦ Review in 45-105 days |
|--|---|

Current

Proposed

First Plat Process – From Environmental Review to PB Review

- ▶ Direction given to staff at BOC Retreat
 - Reduce maximum review time from Environmental Information submittal to Planning Board recommendation by 50% (*from 10 to 5 months*)
- ▶ Based on Options for Environmental Review:
 - Environmental Documentation (<50 lots): ~2-4 months
 - EIA Option A (>50 lots), ERB review: ~3 - 6 months
 - EIA Option B (>50 lots), staff/peer review: ~3-6 months
 - Option C - No EIA required, Environmental Documentation only, staff review: ~2-4 months



Board of Commissioners Review Process

- ▶ **Current Requirements:**
 - BOC reviews within 30 days of PB action
 - BOC has up to 5 meetings for review (~2 months)
 - If no action within 5 meetings, application is deemed approved
- ▶ **Proposed Change for deadline for BOC review**
 - Application is *submitted* for BOC review within 30 days of PB action
 - Using current BOC calendar, BOC review within 30 days may not be possible
 - Change number of meetings for BOC review?
 - Reduction of 1 meeting saves applicant ~15 days

Construction Plan & Final Plat

- ▶ **Current Process**
 - BOC votes at First Plat whether to allow staff to review and approve Construction Plan & Final Plat
 - BOC can also vote at any time after approval of First Plat, but before submittal of Construction Plan or Final Plat, to require Board approval of Construction Plan or Final Plat – includes Planning Board recommendation
 - If Board approval is required, process takes 2 – 6 months
- ▶ **Proposed Process**
 - Remove option of BOC review of Construction/Final
 - Automatic Administrative Review by staff – 15–30 days
 - Significant Changes triggers BOC review process
 - Significant Changes defined in Subdivision Regulations
 - Any appeals of staff interpretation heard by BOC

Other Changes Proposed by Staff

- ▶ **Stormwater and Sedimentation/Erosion Control Plans not required at First Plat**
 - Plat will be required to show proposed location(s) and type(s) of stormwater device(s) and easement(s)
- ▶ **USACE/DWQ Permit(s) not required at First Plat**
 - If Permit(s) required, must be submitted at Construction Plan
- ▶ **Change policy for Financial Guarantee Contracts**
 - Currently, BOC required to approve contract and guarantee – even if Final Plat is approved by staff
 - Staff allowed 1 administrative approval of contract
 - Proposal: Allow staff to accept contract and guarantee after review and approval by County Attorney
 - Add requirement for Contract into Regulations

Other Changes – Continued

- ▶ Recreation Exaction Fees
 - Add language to clearly exempt non-residential subdivisions from Fees – including subdivisions for bona-fide farm uses (with no residence)
- ▶ Allow non-residential (commercial, institutional and industrial) subdivisions to follow minor subdivision process if meet definition
 - Currently required to follow major subdivision process
- ▶ Add requirement for Bonding of Public Road Maintenance until subdivision road accepted by NCDOT for maintenance – Protection for Buyers
 - Examples in Chatham County



Public Hearing

- ▶ Schedule a public hearing or provide draft amendments at future work session?



Mr. Sullivan explained that at the Board of Commissioners' Retreat on February 8, 2011, staff presented information about the current process for Major Subdivisions in the County. Commissioners requested staff to bring back options and recommendations for streamlining the process for Major Subdivision, keeping the same basic framework, with the goal of reducing the amount of time from submittal to Environmental Review Board (ERB) to Planning Board recommendation to five months. Staff has developed several options and recommendations to meet this goal. Mr. Sullivan further explained that currently, the Subdivision Regulations require the following four distinct steps for Major Subdivisions: Concept Plan, First Plat, Construction Plan and Final Plat. The Board of Commissioners asked staff to provide recommendations for streamlining the First Plat process and allow for administrative (staff) approval at the Construction Plan and Final Plat steps.

Mr. Sullivan said the first step in the First Plat review process is review of environmental information by the ERB. Depending on the number of proposed lots, an applicant has to submit either an environmental documentation checklist or conduct an Environmental Impact Assessment (EIA). Under the current regulations, this step could take up to four months. Staff has proposed an option (Option A) to reduce the review time for this step to one – two months, allowing administrative review of environmental documentation while still requiring ERB review of EIAs. If the Commissioners wish to only require administrative review of environmental documentation or EIAs, the review time would still be one – two months (Options B and C). After environmental review, Major Subdivisions are submitted to and reviewed by the Planning Board. This step includes site visits by staff and board members, notifications to the County School System and adjoining properties, and review by the Technical Review Committee. Staff has provided a recommendation to reduce the review time for this step from five to six months to two to four months. If the Commissioners choose Option A for the environmental reviews and follow staff recommendations for the Planning Board review, the time from submittal of environmental information to Planning Board recommendation can be reduced to as few as two months, but will take no longer than six months.

Staff also provided options to reduce the amount of time the Board of Commissioners has to review major subdivisions, as well as provided an option to make administrative review of Construction Plans and Final Plats the default, unless an applicant proposes significant changes from the approved First Plat. Staff included several other recommendations to amend the Subdivision Regulations based on previous applications; these include changing the information required at First Plat, allow lots created for bona-fide farm uses to be exempt from paying Recreation Fees, and changing the requirement that nonresidential subdivisions have to follow the Major Subdivision review process. Staff has also recommended changing the policy for approving Financial Guarantees and contracts.

Chairman Bock asked for more information regarding the EIA, in that in earlier discussions there had been comments that at some level there was nothing the County could do with the information once they had it. He asked if there was a threshold at which point the County would have the authority to do something with the information. Mr. Sullivan said in the subdivision process there was no regulatory requirement that came from an environmental assessment. It was a tool that the developer could use when laying out the design of a subdivision and the County could work with that, but there was no regulatory requirement that came from the environmental assessment that could be applied to the subdivision approval. But, there was a provision through the Conditional Use permitting process where they could use the environmental assessment to add conditions to an approval.

Chairman Bock asked did the requirements of an EIA process make sure that all of their current regulations as well as State regulations were being met. Mr. Sullivan said he would defer to Fred Royal on that question since he did not review those assessments. Chairman Bock said if they did require an EIA he certainly wanted to make sure that all regulations were being followed, so his question was whether the assessment made that happen or was there some other process that made that happen. Mr. Sullivan said any adopted regulations the County had would have to be met by developers. But, the EIA was not the tool to ensure that that was being met. That was up to staff and ultimately through the review processes the Planning Board and the Board of Commissioners, guaranteeing that all the regulations in place were being met. Chairman Bock asked what the EIA was accomplishing.

Fred Royal, Environmental Resources Director, said the previous Board had the intent to identify the most unique natural resources for each development and lot, which meant that the developer would have a better understanding of what they had to work with before they laid out the roads and the lot system. The idea was to provide an understanding of what they had and the value of it and then make decisions on where the roads and lots would be drawn. Basically, it was a preplanning tool to give developers information upfront, just as you would check soils before putting in a septic system.

Chairman Bock said then developers would not do those types of studies if the County did not require it. Mr. Royal said he did not believe they would.

Commissioner Kost said having sat through many ERB meetings with developers and seeing the process work, she believed the result was better development. She believed that most developers wanted to use that information to make changes in their plans, and that having a highly technical review board making suggestions and working with the developers really benefited the environment in the County. She stated she would not support Option C, which was to not require any EIA at all. Mr. Royal added that the revised subdivision ordinance had new language that the previous Board had added to make it clear that it was strongly suggested in the EIA to look at the vegetation types, soils, and the like and using that information to their advantage for the subdivision. The other piece was the Conservation Plan, which was free information that could be used by people when looking at properties to know what they had.

Commissioner Petty asked had they found information from EIAs to be beneficial, and did it oftentimes have an impact on the design. Mr. Royal replied it did, noting that many times sketch designs had been developed but after the EIA and they knew what they had, those designs were revised based on that review. But, sometimes they did not because they were already too far into the design phase. In his opinion there were benefits derived from EIAs, but on the other hand costs and schedules had prevented some developers from taking advantage of what was learned.

Chairman Bock said the County did not have the authority to make developers take advantage of what was learned from an EIA. Mr. Royal replied that was correct; they had the authority to require that an EIA be done, but no authority to require changes be made in plans to take advantage of what was learned. Mr. Royal said that was correct. Chairman Bock said that was the part he was having trouble with.

Commissioner Kost reiterated that having seen the process work, there were things that developers took advantage of when information was known, just as they listened to suggestions made by advisory boards. It was a negotiation with the Planning Board and the ERB, and it worked. Mr. Sullivan said under the current Subdivision regulations they had two major subdivisions with neither meeting the threshold of 25 lots, so they had provided environmental documentation which was basically information pulled from the website. Under the new process they had had no one meet the threshold, so they had had EIAs submitted under the old Subdivision regulations. What was different from the current process was that under the old regulations, developers were given an approval but required to then do an environmental assessment so they were already well into cost of design, whereas under the current process before money was spent on design they were doing the environmental assessment on the front end and then submitted during the first submittal phase.

Commissioner Petty asked who did those studies. Mr. Sullivan said normally it was a consulting firm experienced in conducting environmental assessments. Commissioner Petty asked if he needed a decision before they moved forward. Mr. Sullivan said they could continue through the other information if the Board wanted to think about this a little more, but it was a critical part of the text amendments as far as reducing the overall time of the review process for developments.

Commissioner Petty asked what his recommendation was. Mr. Sullivan stated this was a policy decision for the Board of Commissioners, as to whether or not they wanted to require an EIA.

Chairman Bock asked if the EIA was more helpful or less helpful. Mr. Royal responded that in his experience the larger the development the more helpful an EIA; the smaller the development it was arguably less helpful. Commissioner Petty asked did he anticipate detrimental effects with Option C. Mr. Royal said he would think that if they did not require an EIA, that depending on whom the developer was and what part of the country they lived in that they might miss natural resources that the County had that it would be best not to impact. Commissioner Petty asked for an example. Mr. Royal replied that there were a lot of subdivisions that had come in that had impacted forestry resources that might not have been impacted had the developer known the value. As well, there were always impacts from crossing streams and damaging wetlands that the developer might be unaware of, which could require permitting from the Army Corp of Engineers and which could become a big problem for a developer. It was always better to know those kinds of things at the front end of a process, especially at the Concept Plan stage.

Commissioner Kost said when this came about and was put into place, much of it was because there were cases where wetlands and streams were completely missed by the developers. She said the subdivision on Lystra Garden came to mind. If the Board was to choose Option C, she believed it would have a detrimental effect on the environment.

Commissioner Stewart asked about Option C. Mr. Sullivan said that Option C would mean that there would be no environmental assessment requirement, and only environmental documentation would be required for all major subdivisions. He reiterated that all of that information could be pulled off the Website when an applicant filled out an application.

Chairman Bock said since there were different regulations for Major and Minor Subdivisions, why not have something along the lines of what Option B offered for the Major Subdivisions and then Option C would apply to Minor Subdivisions. Mr. Sullivan said basically Option B was that the 50-lot threshold would be in place, and anything less than 50 lots would only have to submit the environmental documentation. The difference with Option C was that it would not go to the ERB for review and recommendation.

Commissioner Petty asked was there any way that information could be captured with Option C by staff without a Board review. Mr. Royal said the only place it might be captured

was at the very beginning of the process during Concept Plan review where they looked at initial environmental resources, but that was a very cursory, skim the surface review. It was possible that staff could catch it with Option C but it was not an in-depth review by any means.

Commissioner Kost asked why would they pay to have a consultant do a review under Option B when they had a highly technical, very experienced ERB that could do it as volunteers. Mr. Royal said they were attempting to shave time off the process as the Board had requested during the planning retreat. Theoretically, a peer review could happen in a more timely fashion than the ERB's review. Commissioner Kost said she recognized that it would shave off some time, but she wanted to remind the Board that by making the next two phases of subdivision approval administrative they had likely saved nine months off the process.

Chairman Bock stated at this point he was in favor of Option B.

Commissioner Kost moved, seconded by Commissioner Cross, to adopt Option A.

Commissioner Stewart asked for further explanation of Option A. Mr. Sullivan replied that Option A would keep their existing framework in place but change the threshold from 20 lots to 50 or more lots, and reduce the review time from 120 days to 30 to 60 days.

Commissioner Petty said he understood what they were trying to accomplish and appreciated the options that had been provided by staff. Ultimately, they would like to get through the process while still protecting their natural resources. If there was need for an EIA then it certainly needed to be on the front end of the process.

Commissioner Stewart stated that the way their ordinances were written, that was the starting point for any developer. If they had the ordinances in place that covered good environmental practices, then developers knew to pay attention because it was something they had to do. Then, there were others things that would be added on top of that. Mr. Sullivan said that was correct, in that this would be in addition to the regulations. Commissioner Stewart stated that they needed to make sure their ordinances were what they should be, and that would allow them to cut down the time of the review process. Mr. Sullivan stated that one of the things discussed several years ago by the previous Board was that an environmental attorney had told them that an EIA would provide a lot of information but it was impossible to regulate everything and it was impossible to identify everything. From a regulatory standpoint, if you wanted to regulate a certain habitat, you had to have an ordinance in place to do that. So, the EIA was at least a way of bringing that information forward but they may not have a regulation to cover it. Mr. Sullivan reiterated that an EIA was not a regulatory tool; it was in addition to the regulations to bring out information the developer may not have been aware of. Commissioner Stewart remarked she definitely wanted to continue to require the EIA for those larger developments.

Commissioner Petty stated he did not know that he wanted to go with the provisions in Option A, in that he would like to make a motion for Option B but did not know if that was appropriate. Mr. Rose stated the Board would need to act on the motion already on the floor, although the motion could be amended.

Commissioner Kost said again that they had a highly technical ERB that could do the reviews of EIAs as volunteers, but with Option B they would have to hire someone to do that. Mr. Sullivan remarked that the cost would be borne by the developer, not the County. Commissioner Kost said in that case the developers would certainly have concerns about the cost, and the County would just be adding on an additional cost to them.

Chairman Bock called the question to adopt Option A. The motion failed two (2) to three (3) with Commissioners Bock, Petty, and Stewart opposing.

Commissioner Petty moved, seconded by Commissioner Stewart, to adopt Option B. The motion carried four (4) to one (1) with Commissioner Kost opposing.

Mr. Sullivan stated that for additional clarification, a part of Option B was that there would be peer review or staff review, which was an option for consideration. If a peer review was done, then the cost would be borne by the applicant or it could be done through an internal staff review at no cost to the applicant. They also had the issue of the 30 to 60 days for the review, and if staff was doing the peer review they would need the full 60 days because they

would need time to work with the peer review consultant. As well, if a staff review was being done then 30 days would be a very tight schedule.

Chairman Bock asked if they had the staff to do such a review. Mr. Royal stated that it depended on the size of the development and the size of the EIA, noting they could be from a quarter inch thick to six notebooks. It was his feeling that many of the reviews could be conducted in 30 days and they would do their best to meet that schedule. He added that the peer review was designed to have people do the review that were absolute professionals with many skill sets, such as biologists and soil specialists. He said he would do the best job he could do with the time he was given to conduct the review.

Commissioner Petty asked did it have to be either/or, or was there some other option as far as the review.

Commissioner Cross suggested giving staff the discretion to determine which process would be the most acceptable depending on what project was coming forward. He said if a project came forward that they could handle then they could do so, but if time did not allow then they could require the peer review. Mr. Royal said if they did that he did not believe they would be able to charge the developer for that peer review. The standards had to be clear so that developers knew up front what was being required.

Commissioner Stewart said she believed they should just require peer review so that they would have an independent consulting firm with professionals providing the EIA.

Commissioner Petty asked what the turnaround time would be if a peer review was done. Mr. Sullivan replied 60 days.

Chairman Bock asked was the 30 to 60 days somewhat arbitrary; for instance, could it be done in 45 days.

Commissioner Stewart asked should it say up to 60 days. Mr. Royal said that 30 days would be the absolute minimum to get contracts written and the work done.

Commissioner Kost said staff also had to manage their work time. They may be in a slow time now but it would not always be that way. If they said 30 days and five or six were to come in, they did not have the staff to do that.

Commissioner Stewart said if that happened they could always make a change then.

Chairman Bock said it sounded like peer review was the better way to go, and that 60 days was the better completion time for review, although 45 might be just as good.

Commissioner Kost stated she did not believe that 60 days was unreasonable.

By consensus, the Board agreed to clarify that Option B will have a peer review and up to sixty days for completion of the review.

Planning Board Review Process:

Mr. Sullivan said that currently they had a 45-day application submittal prior to the Planning Board meeting. During that time there were three site visits that have to be made available, in that there were three days designated by the developer so that the staff, Planning Board, and any other advisory board members involved in the process could meet at the site with the developer or his designee to walk the property. At this point the ERB, the Board of Education, the Green Building Advisory Board, and the Appearance Commissioner were either all a part of or had the option to be a part of the review process. The Technical Review Committee was a staff level committee that met to review projects. They did notification to neighbors, there was a follow-up ERB review if needed, and a Board of Education review if needed. The Planning Board held a public hearing, and then the Planning Board had over the course of four meetings the opportunity to review and make a recommendation. That review time could range from 46 days out to 136 days.

Mr. Sullivan said under the proposed process, they were proposing what was called an Application Sufficiency Review to take place within 14 days of the deadline. That was to allow staff time to review the application, pinpoint any holes in the submittal, and if so the application would be returned to the applicant to provide whatever information was required. For the remaining 31 days, they were recommending dropping the site visits down to two days rather than three. The Technical Review Committee would still review it, and they would have a notification to the Board of Education and to the neighbors, but there would be no additional advisory board review other than the Planning Board.

Chairman Bock asked if the point of giving notice to the Board of Education was so they could judge any impact. Mr. Sullivan said that was correct, noting it was to give them an opportunity to provide input on the subdivision. There was also a requirement in the General Statutes that allowed for a school system to negotiate with a property owner if they have identified a school site and if a subdivision was being planned for that site. The Board of Education could actually stop the process and then negotiate with the property owner. It also gave them the opportunity to notify the County as to what the impacts were expected to be.

Mr. Sullivan said they were also recommending at least one postponement by staff, which was not a part of the current review process. That was a safety valve so if they got into a situation where they were bombarded with applications then they could instigate a postponement. The other issue that was discussed was that sometimes even with a sufficiency review something might come up when it got to the Technical Review Committee, such as a regulation related to the Fire Code or the Building Code or something of that nature that would not have caused the application to be rejected but was still an issue that had to be addressed. If there was a lingering issue that would provide staff the opportunity to postpone and give the applicant time to get the necessary information together.

Mr. Sullivan said in summary, they were recommending no public hearing by the Planning Board, and then reducing the number of Planning Board meeting review months down to two, which would provide a review window of 45 to 105 days.

Commissioner Kost asked where the public input came in. Mr. Sullivan said typically the way the Planning Board had always handled their meetings was they allowed public input. They could draft a regulation to provide for public input at the Planning Board meeting, but if the Board was so inclined they could simply leave in the provision for a public hearing that would take place as one of the two Planning Board meetings. Commissioner Kost said she would support a public hearing, noting that would allow for more citizen involvement.

Chairman Bock said he understood what Mr. Sullivan was saying, in that the public hearing could be made a part of one of those two Planning Board meetings. Mr. Sullivan said that was correct, noting that the way the current process worked was that once the public hearing was closed, the Planning Board could vote on the application, even the same night as the public hearing.

Commissioner Stewart said then there would be only one public meeting. She said he had said earlier that notifications were sent out and that the developer met with the neighbors. Mr. Sullivan said that was a first step in the Concept Plan review. Commissioner Stewart stated so there was public interaction at that stage. Mr. Sullivan replied that was correct. He stated the reason they were recommending leaving the Concept Plan in was that it had the potential to help at every level because they would have better input and it would save time if issues had already been addressed before it reached the Planning Board.

Commissioner Petty asked was there any other options to consider. Mr. Sullivan said what he had described was the staff's recommendation, which was basically only a reduction in the process time of an application.

Chairman Bock said they were not changing the process time by leaving in the public hearing. Mr. Sullivan said that was correct.

Commissioner Cross moved, seconded by Commissioner Petty to accept Staff's proposal with the modification to hold the public hearing at the first meeting of the Planning Board.

Commissioner Kost stated she would be voting against the motion because she firmly and strongly believed that the ERB should be a part of that process.

Chairman Bock called the question. The motion carried four (4) to one (1) with Commissioner Kost opposing.

Mr. Sullivan said at the Board's retreat the direction was to reduce the time if possible to five months. Based on the different options, they were showing an approximate time from application submittal deadline to Environmental Documentation Review to approval, so with the Option B that had been previously approved they were looking at a three to six month time window.

Board of Commissioners Review Process:

Mr. Sullivan said the current requirements said that the Board would review within 30 days of Planning Board action, with up to five meetings to make a decision. The proposed change was to change it from "review" to "submitted", because there were times when they could get technical review within 30 days of that schedule. The proposed change would make it read "submitted within 30 days of Planning Board recommendation." As well, it was up the Board how many meetings they wanted to give themselves, in that they typically had two meetings a month and the current regulation provided for five meetings. They could have a reduction of 15 days for each meeting they reduced the time limit by, but that was a discussion item for the Commissioners.

Chairman Bock said it came to the Board within 30 days of Planning Board action, and asked why could it not come to the Board sooner than that. Mr. Sullivan said it was simply scheduling, in that they had to have time to get it to the Manager and then get in on the agenda for the next meeting, and many times they could not meet that deadline. With the new schedule where the Board was holding two night meetings a month, there was more flexibility to get to the Commissioners earlier in some cases.

Commissioner Kost said if they reduced it from five meetings to four, it would save the applicant 15 days. Mr. Sullivan said that was correct, unless for some reason the Board did not meet twice in a month. Commissioner Kost said then it would basically be 90 days. Mr. Sullivan said that was correct, and the reason they were suggesting switching from 90 days to five meetings was because under the old regulations they had had to count down the number of days, and by changing the language to the number of meetings it made the process much more manageable.

Chairman Bock said even four meetings sounded like an awful long time for the Board to come to a decision. Mr. Sullivan said one thing to keep in mind as they considered changing that number was that at present there was not much activity but that could change. In the past the Board had spent multiple hours reviewing a subdivision, so they may want to give themselves some time in case development were to pick up. Chairman Bock said then staff's recommendation was four meetings. Mr. Sullivan replied that was correct.

Commissioner Kost said that four months still provided flexibility, and they could always approve it faster if feasible.

Commissioner Kost moved, seconded by Commissioner Petty, to change the wording from "reviews" to "submitted" for the Commissioner submittal deadline and to reduce the number of meetings for considering the first plat from five to four months. The motion carried five (5) to zero (0).

Construction Plan & Final Plat:

Mr. Sullivan said the current process was that after the Board of Commissioners received the first plat, they made a determination as to whether or not staff would review the construction plan and final plat. With the two major subdivisions that had already come through the process, the Board had made the decision that staff could handle it from that point forward. There was also a provision that said the Board could rescind that referral to staff at any time after that decision was made.

Mr. Sullivan said with the proposed process, they could remove from the process the option for Board of Commissioner review of construction plan and final plat approval, and to make that an automatic administrative review. That would then trigger the regulations that if there was significant changes that staff could automatically turn it back to the Board of Commissioners, or the applicant could appeal staff's determination of approval or denial to the Board of Commissioners.

Commissioner Kost asked why they were making that recommendation. Mr. Sullivan said it was an effort to streamline and speed up the process. That was one area where it could be streamlined and they were not suggesting any other changes.

Commissioner Petty said there was a fallback position allowing it to come back to the Board if necessary.

Commissioner Kost said that had been put into place to give the Commissioners more flexibility on subdivisions that were more environmentally sensitive or there were some concerns in other areas. The idea was that it would not be used often, but that the Commissioners would have that flexibility if there was a project that needed a more public review where citizens could be more involved. Commissioner Kost said she did not support the suggested change.

Commissioner Stewart said the regulations still provided flexibility, and if some significant change was made staff would kick it back to the Board. However, by following the guidelines, then the chance of that happening would be slim. Mr. Sullivan said that was why staff was looking at streamlining, in that if they had the first plat approval then standards were triggered that defined what a significant change might be.

Commissioner Petty said if all those issues were addressed initially in the design and layout, then he would trust staff to carry the regulations out. He saw no reason to review it again unless something was triggered by a significant change.

Commissioner Petty moved, seconded by Commissioner Stewart, to accept the proposed process.

Commissioner Kost said they were changing a process that had not really been used because nothing had triggered it, which was odd to her. She knew that the reason it was put in place was to provide more flexibility and they did not have to change it, in that they could still achieve what they wanted by not changing anything.

Commissioner Stewart asked how long the current process had been in place. Mr. Sullivan responded since December 1, 2008.

Commissioner Petty said they had staff in place to deal with those issues and the Board gave them objectives and guidelines to follow, so he did not see the need for it to come back to the Board.

Commissioner Kost said then the Board did not even need to approve them in the first plan; staff could just do that by the Board delegating its approval to staff. Again, it was not just coming to the Board for approval but making it more visible to citizens.

Commissioner Petty said he believed that was done in the early stages and saw nothing that changed that.

Commissioner Kost said where they had run into problems in the past was what a significant change was. They had had several cases where they had had discussions about what was significant and what was not significant. Mr. Sullivan said a part of that was addressed in the rewrite, in that there were criteria included to define what a significant change was and what would trigger it going back to the Board of Commissioners. There had been no guidance prior to that, and if the decision was to move forward with that then staff would also look at additional triggers to include in addition to the criteria already noted.

Commissioner Kost asked that the motion be repeated.

Chairman Bock stated that the motion was to accept the proposed process as written, and called the question.

The motion carried four (4) to one (1) with Commissioner Kost opposing.

Other Changes Proposed by Staff:

Mr. Sullivan stated that these changes were identified by staff, with the first being the requirement that at the first plat stage that they had to have a stormwater and sedimentation and erosion control plan submitted. They had run into problems with that with the first two subdivisions submitted, with the first being an existing nonresidential lot with no disturbance so this regulation was not triggered. With the second one they had had problems telling the developer to provide a stormwater and sedimentation and erosion control plan at first plat because they did not have an approval from the Board of Commissioners on the overall layout. They had discovered that having a developer provide a stormwater and sedimentation and erosion control plan at first plat before they had developed a plan was somewhat backwards because they had no approval. There were also issues with having a full-blown stormwater plan drawn up and not having all the detailed engineering that you would typically have at the construction plat stage. So, the recommendation was that they have the first plat show the proposed locations of stormwater controls, but not to have the developer pay an engineer to provide a full blown design when they had not yet done a full blown design of the entire subdivision. That had been discussed with Erosion Control staff as well as with Fred Royal for the stormwater and erosion control issues, and they were all in agreement with the recommendation.

By consensus, the Board agreed to not require Stormwater and Sedimentation/Erosion Control Plans at First Plat.

- Plat will be required to show proposed locations(s) and types(s) of stormwater device(s) and easements(s)

Mr. Sullivan said the next issue was the Army Corp of Engineers and the DWQ permit, which at the present time said that it was required at the first plat stage. They were recommending that that be submitted at the construction plan stage, and that went to the issue of the timing of when permits were actually obtained in relation to when they actually received an approval from the Board of Commissioners to proceed with the project. One of the things in contention here was that at the first plat stage, the developer had to show all water features and all riparian buffers, so even if there was a regulated wetland on the property and even if the County required that permit at the construction plan stage, they would have already had to show that at the first plat stage. If they had not shown it at the first plat stage and it showed up at the construction plan stage, then the developer had a problem. It was just a matter of did they really need to apply for a permit at that stage in the process.

By consensus, the Board agreed to not require USACE/DWQ Permit(s) at First Plat.

- If Permit(s) required, must be submitted at Construction Plan stage

Mr. Sullivan said this was the policy that the Board had approved for the Financial Guarantee contracts. They normally accepted financial guarantees at the final plat stage of construction, and many times the developers would not be complete with all the improvements when they were ready to record their final plats so they accepted a financial guarantee. There was now a contract that was attached to that financial guarantee that the County Attorney had recommended that they have in place to clearly show when the County could call that Letter of Credit of financial guarantee. The way the policy was approved by the Board was that for new contracts the Board of Commissioners had to approve those, and staff would approve one additional modification. They were recommending that staff be given authority to approve all the contracts and guarantees after review and approval by the County Attorney and they would not have to come back to the Board of Commissioners.

By consensus, the Board agreed to change the policy for financial guarantee contracts to allow staff approval after review and approval by the County Attorney and to add a requirement for contracts in the text amendments.

- Exempt nonresidential subdivisions from Recreation Exaction Fees

Mr. Sullivan said in regards to Recreation Exaction Fees, they were recommending adding language to clearly exempt nonresidential subdivisions from having to pay that fee. They did not currently charge that fee for nonresidential subdivisions because they were not generating a need for recreation, and they only charged that fee for residential subdivisions of land. They were also recommending including the exemption for bona fide farm uses where there was no residence. If there was a residence sharing a lot with a chicken house, for example, and the owner wanted to split the lot to separate the house from the chicken house, you would not have to pay the fee on the chicken house lot. That was already what they were doing, so the change would be clarifying the language to make it very clear.

By consensus, the Board agreed to modify the language for Recreation Exaction Fees to clearly exempt nonresidential subdivisions from paying the fee and to include bona fide farms (with no residence) as part of the exemption.

- Allow nonresidential subdivisions of land to follow Minor Subdivision process if it met the definition

Mr. Sullivan said currently the subdivision regulations state that all nonresidential subdivisions of land were automatically treated as major subdivisions. They had run into that issue with the cell tower lot on US 64, which was a single lot that was split off from a larger farm track and it had to go through the Major Subdivision process for review and approval. What they had provided now was an option to treat all nonresidential subdivisions just as any other subdivision, in that if it met the Minor Subdivision requirements then it would be processed as a minor subdivision, and if it met the Major Subdivision requirements then it would go through the full process. The one difference between the old regulations and the current regulations was that in addition to the nonresidential subdivisions being treated as Major Subdivisions, they also required that a site plan be submitted as part of the process. The site plan was not approved by the Board; it was reviewed by the Planning Board but there was no recommendation of a layout and that site plan was not approved by the Commissioners. It was submitted simply to show what was planned on the property. This option would take that provision out of the regulations so that nonresidential subdivisions were not treated any differently than any other type subdivision.

Commissioner Kost said that other than the cell tower, she could think of only one in the last five years which was the County Line site. This would be a really rare occurrence. Mr. Sullivan agreed that they did not have many nonresidential subdivisions coming through the process. Commissioner Kost asked what if they were building a road. Mr. Sullivan responded that if they were building a public road it would automatically fall under the Major Subdivision category. Commissioner Kost agreed, but would they still be treated as a Minor Subdivision. Mr. Sullivan replied no, that even with a Minor Subdivision that if they were building a public road they would automatically fall under the Major Subdivision regulations. Commissioner Kost said if they were going to treat all nonresidential subdivisions as Minor, then that did not trigger that requirement. Mr. Sullivan said they would be treated no different than a residential Minor Subdivision unless they were proposing a public road.

By consensus, the Board agreed to allow nonresidential (commercial, institutional and industrial) subdivisions to follow the Minor Subdivision process if it meets the definition.

- Bonding of Public Road maintenance until the road is accepted by NCDOT

Mr. Sullivan said they were proposing to add a requirement for bonding of public road maintenance until a subdivision road was accepted by NCDOT for maintenance. That was an issue that did not come up often but they did have a situation they were currently trying to deal with where roads were constructed within a subdivision and dedicated for public use, they were built and designed to NCDOT standards, and when the final plat had come through they had received a letter from NCDOT stating that the roads had been built to meet their standards. But, NCDOT will not accept a road for maintenance until there were residents living on the road. What had happened in one subdivision was for whatever reason the developer or homeowners had not petitioned to have the road taken over until several years had passed, and now there was a punch list that was about nine pages long that had to be completed before NCDOT would accept that road for maintenance, which included repairing potholes the size of vehicles, re-grading ditches, and removing mailboxes that were built out of brick in the right-of-way. The

County had no say in that because there were no provisions in the regulations and they had no financial guarantee to help cover the expense. They were at the point now where the developer and the residents were trying to address it so that NCDOT could take the road over. This was something staff had discussed internally for several years; that is, should they recommend that bonding of the public road maintenance be included as a protection until NCDOT took over the road for maintenance.

Commissioner Kost asked was that a common practice across the State. Mr. Sullivan said it varied by jurisdiction, noting there were some jurisdictions that did that, particularly counties, because counties did not maintain roads. Cities did not need that provision as much because the city would take over the road for maintenance so they likely had other financial guarantees in place to cover that road. Commissioner Kost asked how the bond amount would be determined. Mr. Sullivan said they had not worked out those kinds of details, but they would be looking at other jurisdictions to determine how they applied that.

Commissioner Petty asked did Mr. Sullivan see the need for that. Mr. Sullivan said yes, noting that it would be a rare occurrence for this to come up but if that happened they would want to have that stipulation in place.

Commissioner Kost stated she was worried that they would end up with more private roads because they would not want to establish a bond for a public road, and an unintended consequence would be more private roads. To her, that would be a huge mistake because private roads may not be maintained by the homeowners over a long period of time. Mr. Sullivan said under the subdivision regulations, you were only allowed to have a private road when you had a plain residential development, and the other provision was that the lots had to be an average of five acres in size with no lot smaller than three acres. So, if a developer wanted to build a subdivision with an acre and one-half lots on a private road, the only way they could do that would be to go through the residential development process; otherwise, the County would require that it be a public road unless it was a Minor Subdivision of four lots or less. If a developer was doing ten lots or twenty or thirty lots at an acre and a half or two acres and going through the standard subdivision process, it would have to be a public road.

Commissioner Petty asked who he would be bringing back the guidelines for establishing a bonding of public road maintenance. Mr. Sullivan said they had not yet discussed it with the County Attorney so they would be bringing something back once the Board expressed an interest in moving forward with it.

By consensus, the Board agreed to add a requirement for bonding of Public Road Maintenance until the subdivision road is accepted by NCDOT for maintenance.

- Set a public hearing on the draft text amendments

Mr. Sullivan said the next issue was whether or not the Board wanted to see the proposed draft text amendments prior to the public hearing, or simply set the public hearing.

Commissioner Kost asked how much time did staff need. Mr. Sullivan said if the public hearing was set today, the earliest they could come back with the draft would be May 16. Commissioner Kost said she would like to have at least a week to review the text amendments. Mr. Sullivan said it may be better to have an additional work session and push the public hearing to June so that any changes the Board wanted to make could be incorporated into the draft prior to the public hearing.

Commissioner Kost said as staff went through the regulations something else might get triggered. Mr. Sullivan said that was possible, so delaying the public hearing would give staff the opportunity to propose additional language. Commissioner Kost said then what he was proposing was that the text amendments be brought back at the Board's first meeting in May as a work session item. Mr. Sullivan said they may be able to make the first meeting in May and they could set the public hearing at that time for June.

By consensus, the Board agreed to bring back the draft text amendments at a future work session and to schedule the public hearing at that time.

Mr. Sullivan said based on the discussion at the retreat, they would work up the proposed amendments and present them directly to the Board of Commissioners, and the Planning Board would not come into play until the public hearing process.

Chairman Bock said there may be more to discuss than what was discussed at the retreat, and perhaps the Planning Board should be given the opportunity to go through and look at the amendments and then offer comments to the Board of Commissioners.

Commissioner Kost said but they had just gone through fairly comprehensively the process, and they would slow down the process if they did that. The Planning Board could look at other aspects of the subdivision regulations. Mr. Sullivan said they would work out the details and bring them to the work session, and then it would go to the Planning Board for the public hearing process.

Chairman Bock said then everything the Board had just voted on would be brought back in the form of text amendments. Mr. Sullivan said the question was if the Board wanted to go ahead and schedule a public hearing and trust staff to work out the details based on the Board's decisions today, and bring those draft text amendments to them at a work session a couple of weeks prior to the public hearing. Or, did they want staff to bring back the text amendments to the work session, go over the details, and then schedule a public hearing at that time.

Commissioner Kost said there would need to be a communication effort just as they had done with the signs so that the information could be explained in lay terms so the public would understand what they were doing.

Charlie Horne, County Manager, reminded the Board that the proposed budget would be presented on May 16 and that would not be a public hearing. The public hearing was on May 23 and 24. He raised that issue as a concern because if they did the public hearing in June on the proposed changes gone through today, they would get pinched by the budget process during the month of June. Mr. Sullivan said the question was whether they wanted to schedule the public hearing now or did they want this brought back as a work session sometime in May, and the Board could set the public hearing at that time.

Commissioner Kost said that would be her preference; that is, to set the public hearing at a future work session.

By consensus, the Board agreed that the details of the issues discussed today would be brought back at a future meeting in May as a work session item.

LEED CERTIFICATION POLICY WITH CAPITAL CONSTRUCTION PROJECTS

Chairman Bock stated the Board had talked about this issue at length at a previous meeting, and asked if any of the Commissioners had anything to add to that discussion.

Commissioner Kost said if they did not have a LEED Silver policy which was for public County buildings over 20,000 square feet, did that make a difference in the architect selection. It seemed to her that if you had a policy that would impact the architects who would even be interested in the project and would impact who they selected. Renee Paschal, Assistant County Manager, said when they had built the Library building they definitely were interested in an architect with LEED experience. She believed that more and more architects were getting that type of experience now so it was less of an issue. When they had selected the jail architect everyone who had come forward had LEED experience.

Commissioner Stewart said she had actually done a little research on that issue and had found that was the case more and more. She had talked with an architect over the weekend about this issue as well as an engineer, and she had been told that you wanted to make your building energy efficient so that you would have a good return on your investment; in other words, do the right thing. The LEED certification was somewhat like a diploma and was something that could be pointed to as an accomplishment, but a lot of the things that were included in LEED certification were things like bicycle racks which you got points for. So, the question was whether all points were created equal. What about the heating and cooling systems, noting that you could also get points for such things as changing rooms and lockers but that did not make the building more energy efficient or more sustainable.

Commissioner Stewart said her point was that there were other things in the LEED certification that were somewhat geared towards bragging rights, in that people wanted to be able to say they had achieved that level. But, she said, the architect she had spoken with said from his standpoint he would build a building in any way the client desired and spend as much money as they wanted to, but many of the architects knew what within the LEED program were beneficial as far as what to include and what not to include. You did not have to forego those by not having the LEED certification in that you could build those things in; it was just that you were not seeking that certification so you did not have to spend that kind of money to have an energy efficient building. She said she had found that perspective interesting, and she believed they could still build an energy efficient building without seeking LEED certification.

Commissioner Kost said if they were going to build a building that had all the energy efficient aspects that LEED stated, they would still have to verify that they were getting what they paid for such as with the HVAC systems. Basically, what they were saving was just the certification, but the LEED people would be verifying the data of all the systems installed. She wondered who would do that if not LEED, and that LEED was much more than just a diploma. If it was not LEED, then who would be verifying the systems? Ms. Paschal said she believed they could have a commissioning agent without doing LEED certification, and the commissioning agent would verify that the systems were functioning as required.

Chairman Bock said but if they had a standard of how a building was to be built, surely they did inspections along the way to make sure it was being built to that standard, whether that was a commissioning agent or LEED or anyone else.

Commissioner Kost said that was why you had a project manager.

Chairman Bock agreed.

Commissioner Stewart said they would have to be able to measure energy efficiency either way. She said otherwise, how would they know when they implemented the latest technology as far as heating and cooling that they were getting what they paid for. She had looked at a lot of research and documentation on this issue as far as who would measure and who would track energy efficiency to make sure it was working, and one of the big issues about that was where the data was that really supported LEED in that respect over the long term. What she was seeing and hearing was that they did not have the data to support everything at this point that would show that the extra cost was definitely worth getting the certification. They wanted to do things right and to get the best energy and environmental features, but the discussion today was whether they wanted to spend the extra money to achieve a LEED Silver certification.

Chairman Bock said more accurately the question was whether they wanted the flexibility in building situations to make that call.

Commissioner Petty said that was his understanding as well, in that as it stood right now it appeared that the policy said that all buildings over 20,000 square feet, and he personally believed the phrase "all buildings" should be removed because they needed the flexibility to do it where they wanted to do it and not be forced to do it with every building regardless of whether it was a school or something else. If they were worried about commissioning, that was something that should take place during the design and submittal process in order to get the efficiencies covered that way because the equipment installed had to meet certain guidelines. If the equipment met the guidelines then the commissioning process was not necessary.

Commissioner Kost said what they were talking about right now were two buildings in the short term, which were the Judicial Center and the jail, because they did not expect any buildings over 20,000 square feet until 2016 when another high school was proposed. The Judicial building had already been designed to meet LEED Silver certification. Ms. Paschal said she believed the building at it was currently designed would not meet LEED Silver.

Chairman Bock said that was his understanding as well. Ms. Paschal said it was very close to meeting LEED Silver, but given the discussion the Board had held, they had needed to make a decision about whether to go ahead.

Commissioner Kost stated then they had bid a building that did not meet the existing rules that the Board had voted on. She said she did not like that, noting that the Board's policy

was that it would be designed and built to LEED Silver. Now, a decision had been made before the Board even voted on this not to do that and they had already bid the building, so something did not seem right to her about that.

Chairman Bock said he believed they had had a discussion about whether or not to move forward with LEED certification and they had reached a point where they had had to make that decision.

Commissioner Kost said they awarded the bids. Ms. Paschal said it had been her understanding that it was very close to being LEED Silver. One of the things that had changed was that the Photovoltaic (PV) system was taken out which could easily be added back into the bid as a Change Order. She said she did not believe the intent was not to achieve LEED Silver; they just had to proceed in a direction and the PV system was very expensive and had a longer payback which was why it had been removed from the bid. There may have been a couple of other things that they had decided not to go with, but they could easily be added back with Change Orders with the additional cost included.

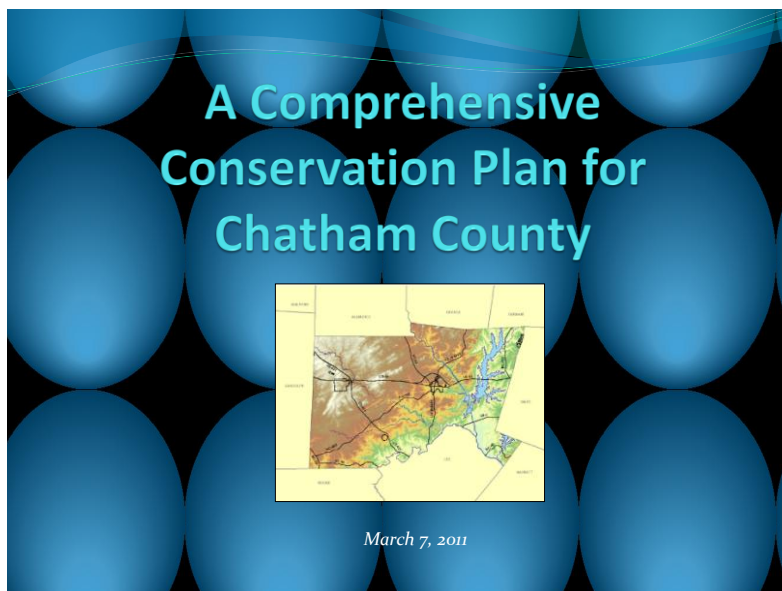
Commissioner Kost said that if ever you wanted to build a building to LEED standard it was a 24/7, 365 facility like the jail. If the Board wanted flexibility that was fine, but she would make a very strong argument that the LEED certification for the jail would verify that they were getting what they wanted which was a very energy efficient 24/7, 365 facility.

Commissioner Stewart asked how much more energy efficiency they would get with the LEED Silver than without. Ms. Paschal said she could not answer that.

Chairman Bock said the Board would not be voting on this issue now.

CHATHAM CONSERVATION PLAN

Allison Weakley provided a PowerPoint presentation on the Chatham Conservation Plan, as follows:



Chatham Conservation Partnership (CCP)

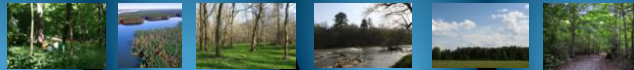
Mission: to develop and implement strategies for a community conservation vision that builds awareness, protection and stewardship of Chatham County's natural resources.



The CCP consists of over 50 organizations and participants, including federal, state, and local government agencies, non-profits, business owners, developers, and landowners.

CCP Steering Committee – Past and Present

- NC Natural Heritage Program
- US Fish and Wildlife Service
- Triangle Land Conservancy
- Chatham County Soil and Water Conservation
- Chatham County staff
- Chatham County landowner



Funding for the Conservation Plan

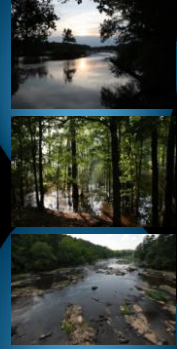
- Z. Smith Reynolds Foundation and NC Wildlife Action Grant Program
 - administered by the Triangle Land Conservancy (TLC)
- NC Urban and Community Forestry Grant Program
 - administered by the Piedmont Conservation Council (PCC)



*plus in-kind services from local, state, and federal agencies, and others!

Goals of the Conservation Plan

- A community vision for natural resources
- A greater understanding and awareness of the importance and location of natural resources
- An understanding of the economic importance of forest resources for timber, recreation and water quality
- An increased knowledge of the impacts and threats to important natural resources
- Preferred strategies to manage and protect important natural resources



Project Overview

- Conservation Plan
- Conservation Analysis and Mapping
- Environmental Resource Data
- Stakeholder Involvement
- On-line Tool



Stakeholder Involvement

- Focus Group Meetings (7)
- CCP Meetings (4)
- Chatham Advisory Board Meetings (3)
 - Environmental Review Board
 - Planning Board
 - Agriculture Advisory Board
- Chatham Community Meetings (2)
 - Pittsboro and Siler City
- Chatham/Cary Joint Plan Committee (1)
- NC Soil and Water Conservation District Meeting (1)
(Area 3 – 11 Districts)
- Chatham Board of Commissioners (1)
- Open House Community Meeting (1)



Conservation Plan Table of Contents




INTRODUCTION

- Description of the Plan
- Purpose and Need
- Goals and Objectives
- Stakeholder Involvement
- Existing Partners and Coordination



GENERAL DESCRIPTION

- Geography and Topography
- Geology
- Soils
- Land Use Planning and Management



PUBLIC RESOURCES

- **Biodiversity/Wildlife Habitat**
 - Natural Plant Communities
 - Plant and Animal Species
 - Significant Natural Heritage Areas (SNHAs)
 - Wildlife Habitat
- **Working Lands**
 - Forestland
 - Farmland
- **Recreation**
- **Water Resources**

THREATS




METHODS

- Data Compilation and Synthesis
- Identification of Priority Species, Habitats and Forest Resources
- Conservation Ranking and Analysis

ANALYSIS RESULTS

- Biodiversity/Wildlife Habitat Resources
- Forest Resources



RECOMMENDATIONS

- Land Protection
- Land Use Planning, Regulations, and Policies
- Resource Management
- Coordination with Partners
- Funding and Incentives
- Education, Outreach and Stewardship
- Monitoring
- Implementation and Updates

APPENDICES

- Rare Species
- Plans, Policies and Ordinances
- Funding and Incentives
- GIS Data Information
- Methods for Conservation Ranking and Analysis
- Forest Resource Economic Analyses (Timber, Water Quality and Recreation)
- Surface Waters

REFERENCES



Purpose and Need

- Information on important resources aid in decision-making, planning, and project review, and can support funding opportunities
- Best available most current GIS data are readily available for use in online mapping tool and as download from FTP site
- Education and outreach – including general public and landowners



Building on State and Regional Conservation Planning

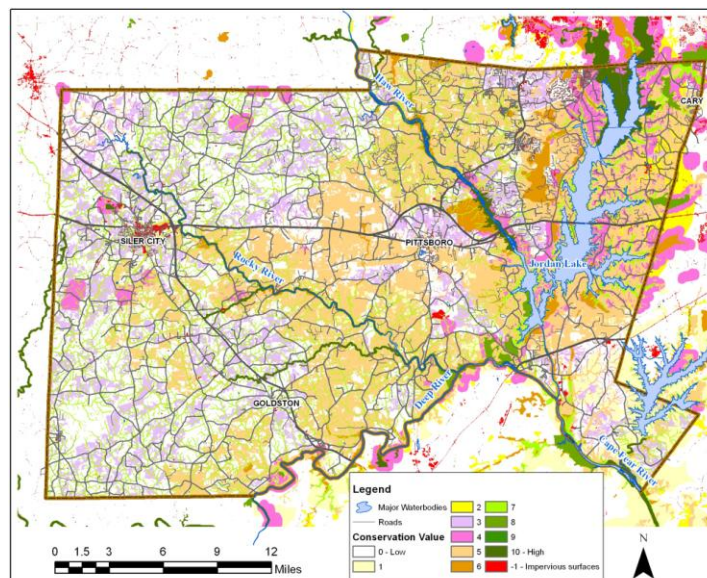
- NC Conservation Planning Tool
- NC State Wildlife Action Plan
- Southern Forest Land Assessment
- NC Forest Resource Assessment

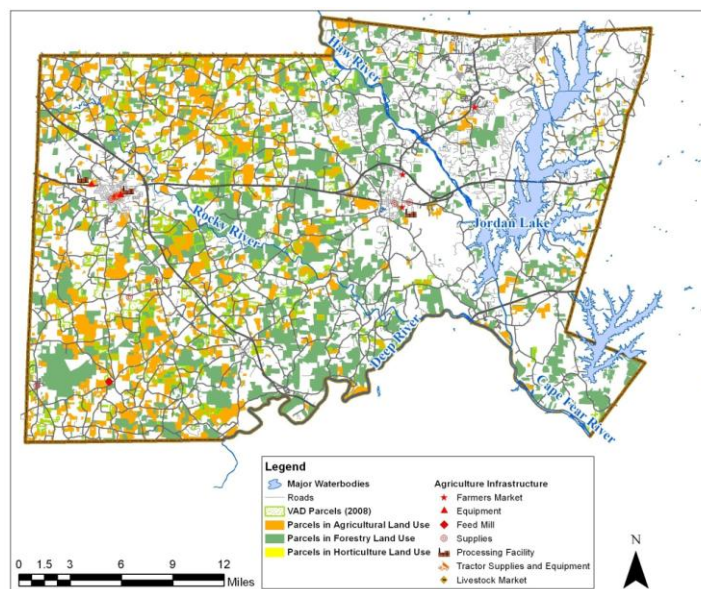
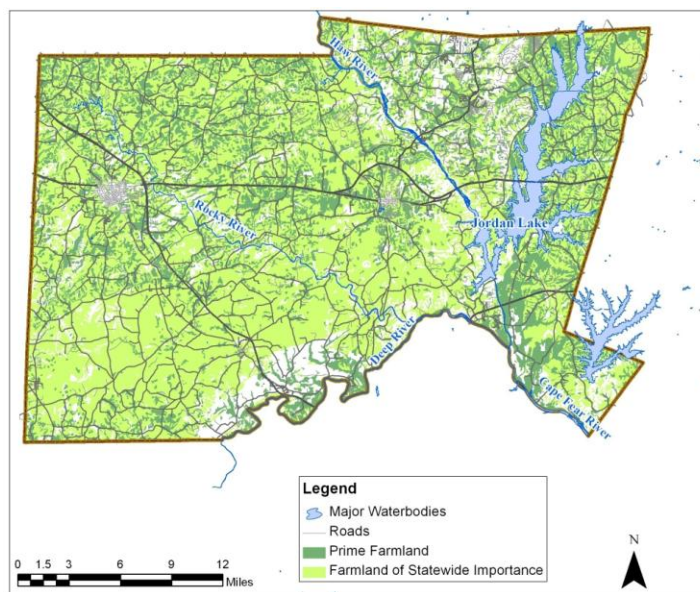
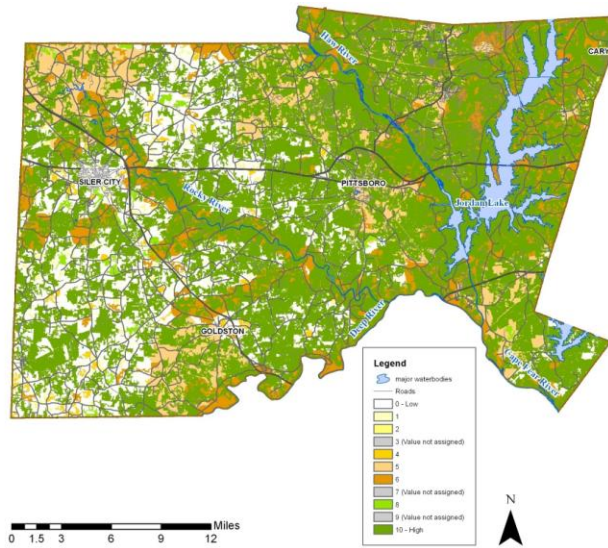


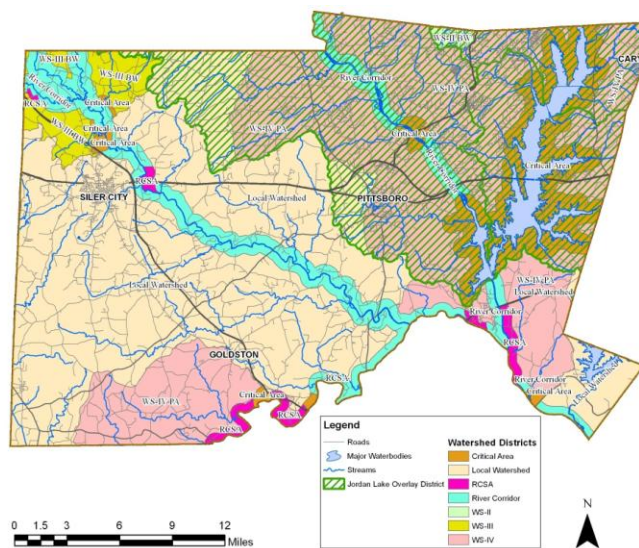
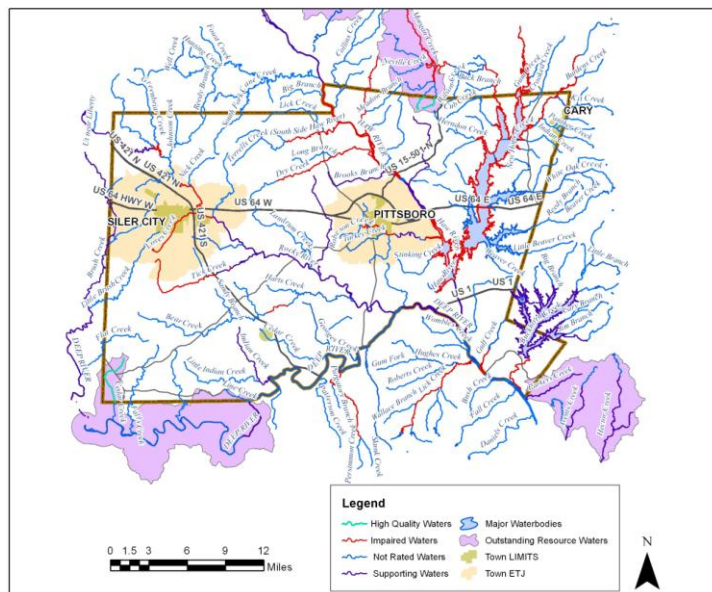
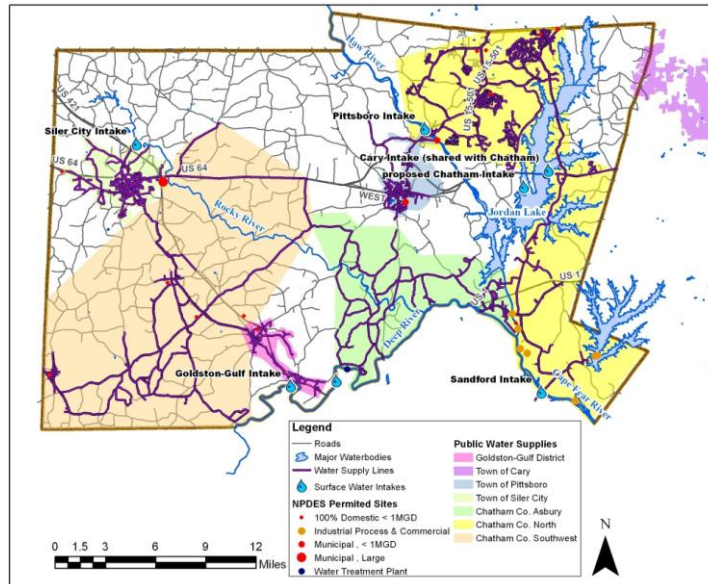
The Chatham Conservation Plan considers data layers and methods used in these existing models, and provides updates, additions and other modifications for application of these planning efforts at the local level.

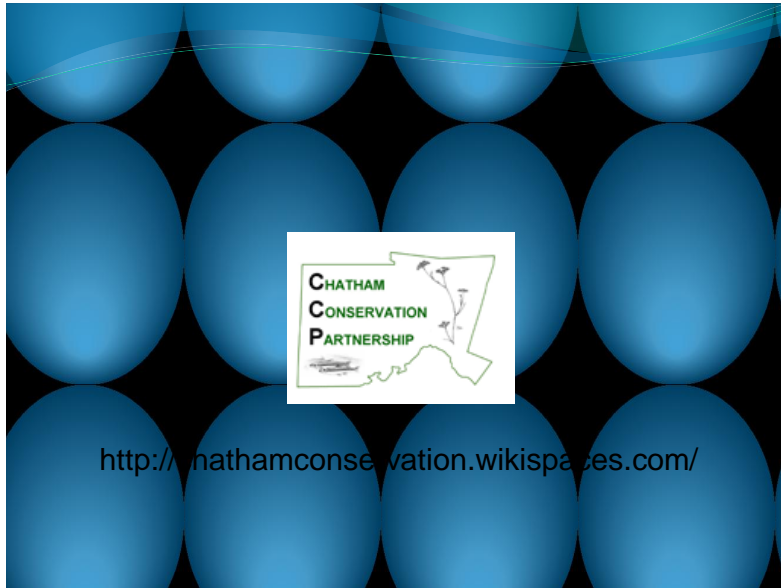
Conservation Layers used in Mapping

- Rare species and high-quality communities
 - Significant Natural Heritage Areas (SNHAs)
 - Element occurrences (EOs)
- Landscape Habitat Indicator Guilds (LHIGs)
- Wetlands
- Streams
- Priority Watersheds
- Important Bird Areas (IBAs)
- Priority Habitats (State Wildlife Action Plan)
- Forest resources (forestland, forest patch size)
- Protected land
- Impervious surfaces



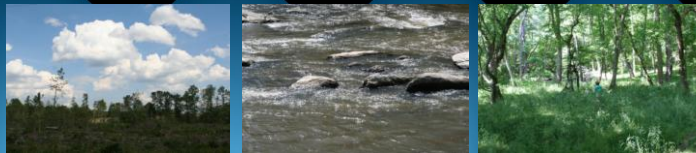






Next Steps

- Focus on 4 Public Resource components
- Build support and awareness of the Plan, and conduct outreach workshops on how to use the Plan
- Update the CCP wikispace with final Plan and other information
- Request endorsement and implementation



QUESTIONS?





Commissioner Stewart asked that based on the current issues, were they seeing any funding reduced for this kind of program. Ms. Weakley responded that the grant programs were from private foundations and even though they had had reductions in funding, the fact that they were funded spoke to the interest that those granting programs had in the development of conservation plans. They saw this Conservation Plan as a model for conservation plans for other counties in the State to follow.

Commissioner Petty asked when the grants had been received. Ms. Weakley said they had applied in 2008 and the grants were awarded in 2009. Commissioner Petty asked when the grant would end. Ms. Weakley said the project was almost complete although they had just a little more work to do that was funded under another foundation.

Commissioner Petty stated that the goals of the plan addressed a lot of natural resources, an understanding and awareness of location, timber, and the like. But, he had noticed that had only one landowner listed on the committee. Ms. Weakley explained that was on the Steering Committee, noting there were other landowners participating in the partnership itself.

Ms. Weakley said they would appreciate any feedback the Board might want to provide on the Plan, adding that they eventually would be asking for endorsement and implementation of the Plan. She then provided the Board with her contact information so they could forward to her any feedback.

TRANSPORTATION ADVISORY BOARD

Melissa Guilbeau, Transportation Planner, explained that the Transportation Advisory Board's (TAB) Executive Committee is recommending that the Board of Commissioners vote to remove two TAB members for failure to attend meetings.

The TAB bylaws state the following: "Failure to attend three (3) consecutive regular meetings or any four (4) regular meetings during a twelve (12) month period shall be grounds for removal of a member of the TAB by the Board of Commissioners on recommendation of the Executive Committee."

There are two TAB members that meet these criteria. R. Sutton has failed to attend seven consecutive meetings, with a total of eight missed meetings in a ten month period. W. Thompson has failed to attend six consecutive meetings, with a total of seven missed meetings in a ten month period. During this period, the TAB Chair has been in contact with these individuals to request their attendance. Given these circumstances, and in accordance with the TAB bylaws, the TAB's Executive Committee recommends that the Board of Commissioners vote to remove these two TAB members.

These two positions, along with a currently vacant position, would then be advertised to solicit new members. Those wishing to serve would submit a completed application, and then a selection committee would review the applications and recommend individuals for the Board of Commissioners to appoint.

Chairman Bock asked had the two members been contacted to determine why meetings were being missed. Ms. Guilbeau said the Chair had contacted both individuals on several occasions, but that contact had not resulted in a positive response to attendance at meetings.

Commissioner Cross moved to approve removal of the two members as noted from the TAB.

Commissioner Kost asked if they were full Board appointments or appointments by Commissioners. Ms. Guilbeau said they were full Board appointments, in that none of specific to any single Commissioner.

Commissioner Petty seconded the motion.

Chairman Bock called the question. The motion carried five (5) to zero (0).

JOINT BOARD OF COMMISSIONERS AND BOARD OF EDUCATION MEETING

Chairman Bock stated he wanted to schedule a Joint Board of Commissioners/School Board meeting, and asked what date should be considered. The County Manager stated that staff had confirmed the date of March 21st. Chairman Bock said that was the Board's regular meeting date. The County Manager replied that was correct. Chairman Bock said that was also the date of the School Board's regular meeting. The County Manager responded that was correct. Chairman Bock said the question then would be where the meeting would take place, noting that presumably they would have a relatively large audience. The County Manager said the plan was to either hold it here or in the Agricultural auditorium.

Commissioner Kost stated she believed it should be held at one of the schools.

Chairman Bock said the concern was that they might run out of space, noting that Horton Middle School had a large space. The County Manager said they could check into the availability of Horton Middle School, noting that if the meeting was held late enough in the afternoon students would not be there so they would not have that conflict, but otherwise they were looking likely at between 4 PM and 6 PM for the joint meeting. That was arbitrary on his part as no confirmed time had been set, but the date was confirmed.

Chairman Bock stated a larger space like Horton School was preferable. The County Manager stated staff would obtain the largest space available for the joint meeting.

By consensus, the Board agreed to let staff work out the logistics of meeting with the School Board.

ADJOURNMENT

Commissioner Petty moved, seconded by Commissioner Cross, to adjourn the meeting. The motion carried five (5) to zero (0), and the meeting was adjourned at 5:04 PM.

Brian Bock, Chairman

ATTEST:

Sandra B. Sublett, CMC, NCCCC, Clerk to the Board
Chatham County Board of Commissioners