

MINUTES
CHATHAM COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING
MARCH 19, 2012

The Board of Commissioners (“the Board”) of the County of Chatham, North Carolina, met in the Agricultural Building Auditorium, 45 South Street, Pittsboro, North Carolina, 6:00 PM on March 19, 2012.

Present: Brian Bock, Chairman; Walter Petty, Vice Chair;
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; Sandra B. Sublett, Clerk to the Board; and Lindsay Ray, Deputy Clerk to the Board

INVOCATION AND PLEDGE OF ALLEGIANCE

Commissioner Cross delivered the invocation after which the Chairman invited everyone present to stand and recite the Pledge of Allegiance.

CALL TO ORDER

Chairman Bock welcomed those in attendance and called the meeting to order at 6:07 PM.

AGENDA AND CONSENT AGENDA

Chairman Bock explained that there had been several requests as follows:

- January 17, 2012 Board of Commissioners Regular minutes be removed from the Consent Agenda and placed on the Regular Agenda for discussion
- Board of Commissioners’ 2012 Meeting Calendar be removed from the Consent Agenda and placed on the Regular Agenda for discussion

Commissioner Petty asked if the Solid Waste Advisory Committee appointment had been advertised. Staff replied, no. Commissioner Petty asked that his appointment to the Solid Waste Advisory Committee be deferred until a later date.

Commissioner Stewart moved, seconded by Commissioner Petty, to approve the Agenda and Consent Agenda with the noted requests as follows:

APPROVAL OF AGENDA and CONSENT AGENDA

1. **Minutes:** Approval of Board Minutes for the Regular Meetings held ~~January 17, 2012~~ and February 20, 2012, Work Session held January 17, 2012 and Special Meeting held February 6, 2012

The January 17, 2012 Regular Minutes were removed from the Consent Agenda and placed on the Regular Agenda for discussion.

The motion carried five (5) to zero (0).

2. **Family Visitation Services (court related) “FVS” Grant Request:** Vote on a request to approve FVS’s request for the Safe Havens, Dept of Justice, Supervised

Visitation & Exchange Project Grant funded by the DOJ: Office on Violence Against Women, application attached hereto and by reference made a part hereof.

The motion carried five (5) to zero (0).

3. **Lease Extension with Rosemary Street Properties:** Vote on a request to approve the lease extension for rental property for the Sheriff's Office

The motion carried five (5) to zero (0).

4. ~~**Board of Commissioners' 2012 Meeting Calendar:** Approval of a request to adopt the Resolution Setting the Time and Place for Meetings of the Chatham County Board of Commissioners for Calendar Year 2012~~

This item was removed from the Consent Agenda and placed on the Regular Agenda for discussion.

5. **Resignation from the Board of Equalization and Review:** Vote on a request to approve the resignation of Bart Dunn as an alternate on the Board of Equalization and Review

The motion carried five (5) to zero (0).

6. **Appointment for the Board of Equalization and Review:** Vote on a request to appoint Brenda Turner as an alternate, by the full Board, to the Board of Equalization and Review

The motion carried five (5) to zero (0).

7. ~~**Re-Appointment to the Solid Waste Advisory Committee (SWAC):** Vote on a request to re-appoint Patrick Barnes, by Commissioner Petty, to the SWAC Committee for a three-year term~~

This item was removed from the Consent Agenda to be considered at a later date.

8. **Appointment to Triangle South Workforce Development Board:** Vote on a request to appoint Mary Millard, by the full Board, as a private sector member serving a four-year term to end June 30, 2016

The motion carried five (5) to zero (0).

9. **Appointment to the Library Advisory Committee:** Vote on a request to approve the appointment of Graciela Robinson, by Commissioner Cross, to serve a three-year term ending June 30, 2015

The motion carried five (5) to zero (0).

10. **Appointment to the Environmental Review Advisory Committee:** Vote on a request to approve the appointment of David Mattison, by Commissioner Cross, to serve a three-year term ending June 30, 2015

The motion carried five (5) to zero (0).

11. **Appointment to the Environmental Review Advisory Committee:** Vote on a request to approve the appointment of Robert Soots, by Commissioner Petty, to serve a three-year term ending June 30, 2015

The motion carried five (5) to zero (0).

12. **Appointment to the Environmental Review Advisory Committee:** Vote on a request to approve the appointment of Joan McClean, by Commissioner Stewart, to serve a three year term ending June 30, 2015

The motion carried five (5) to zero (0).

13. **Appointment to the Joint Committee on Nursing Homes, Adult Care and Family Care Homes:** Vote on a request to approve the appointment of Barbara Benjamin to a one-year term by the full Board

The motion carried five (5) to zero (0).

14. **Appointment of Non-Profit Review Panel Volunteers:** Vote on a request to appoint all applicants to the Non-Profit Review Panel

The motion carried five (5) to zero (0).

15. **Child Abuse Prevention Month:** Vote on a request to adopt **Resolution #2012-10 Proclaiming the Month of April 2012 as Child Abuse Prevention Month**, attached hereto and by reference made a part hereof.

The motion carried five (5) to zero (0).

16. **Earth Month 2012 Proclamation:** Vote on a request to adopt a **Resolution #2012-11 Proclaiming the Month of April 2012 as Earth Month in Chatham County**, attached hereto and by reference made a part hereof.

The motion carried five (5) to zero (0).

17. **Sexual Violence Awareness Month:** Vote on a request to adopt a **Resolution #2012-12 Proclaiming the Month of April 2012 as Sexual Violence Awareness Month**, attached hereto and by reference made a part hereof.

The motion carried five (5) to zero (0).

18. **DOT Road Maintenance Abandonment Resolution:** Vote on a request to approve a **Resolution #2012-13 to Abandon Road Maintenance on SR #2162, also known as Mark Teague Road**, attached hereto and by reference made a part hereof.

The motion carried five (5) to zero (0).

19. **YMCA Lease Extension:** Vote on a request to approve the YMCA's Lease Extension through June 30, 2014, attached hereto and by reference made a part hereof.

The motion carried five (5) to zero (0).

20. **Family Planning Bonus:** Vote on a request to accept Family Planning Bonus funds in the amount of \$2,240.00 awarded to the Health Department

The motion carried five (5) to zero (0).

21. **Chatham County Board of Adjustment:** Vote on a request to allow Chatham County flexibility in appointing its Board of Adjustment (BILL DRAFT 2011-LB-407 [v.1] (02/27))

The motion carried five (5) to zero (0).

END OF CONSENT AGENDA

PUBLIC INPUT SESSION

Karl Ernst, 711 Red Oak Drive, Siler City, NC, asked that Item #23, a request by Mike Sanchez, P.E., John R. McAdams Company, Inc. on behalf of Briar Chapel for Phase 4 and Phase 5 -- Conversion of 3 existing Lots #246, #446, and #480 to common area to accommodate off - street parking, be approved. He stated that the Planning Board decided that they would not allow the conversion of lot #246 because it was next to an existing house; that it speaks highly of Briar Chapel that they are willing to sacrifice income from these lots to provide a better situation for the residents as they would not have to park on the street, there will be off-street parking available; and that he feels that was an improvement. He asked the Board to look favorably on the request.

BOARD OF COMMISSIONERS 2012 MEETING CALENDAR

Approval of a request to adopt the **Resolution Setting the Time and Place for Meetings of the Chatham County Board of Commissioners for Calendar Year 2012**

Commissioner Kost asked that the Siler City Budget Public Hearing be added to the calendar on May 22, 2012 at 6:00 PM and that the June 4, 2012 Work Session be changed to begin at 2:00 PM.

Commissioner Kost moved, seconded by Petty, to adopt **Resolution #2012-14 Setting the Time and Place for Meetings of the Chatham County Board of Commissioners for Calendar Year 2012** with the recommended changes. The motion carried five (5) to zero (0). The resolution is attached hereto and by reference made a part hereof. p

MINUTES

Commissioner Kost asked that in the January 17, 2012 Work Session Minutes, Page 31, the Staff reply to citizen comments be removed from the official record.

Commissioner Kost moved, seconded by Commissioner Petty, to approve the January 17, 2012 Board of Commissioners Regular Minutes with the noted change. The motion carried five (5) to zero (0).

PLANNING DEPARTMENT

Revision to Briar Chapel Phase 4 and Phase 5 Final Plats: Vote on a request by Mike Sanchez, P.E., John R. McAdams Company, Inc. on behalf of Briar Chapel for Phase 4 and Phase 5 -- Conversion of 3 existing Lots #246, #446, and #480 to common area to accommodate off - street parking

Jason Sullivan, Planning Director, explained the specifics of the request as follows:

Briar Chapel, Phase 4, Section 3 received final plat approval from the Board of County Commissioners for 129 lots on 11/19/07. Briar Chapel, Phase 5 North, received final plat approval from the Board of County Commissioners for 174 lots on July 18, 2011.

This is a request for revision of final plats as listed above for conversion of three (3) residential lots to common area to be used for overflow parking for resident's guests and service workers. The total number of approved dwelling units, 2,389, for the overall development, will not change with this request. Two of the lots, #'s 246 and 446, are located in Phase 4, Section 3 and one (1) lot, # 480 is located in Phase 5 North. Per Mike Sanchez, P. E. *"The conversion of these lots to parking areas is needed because NC DOT will not allow for on-street parking on Briar Chapel Parkway and Great Ridge Parkway and NNP-Briar Chapel has developed a plan to provide for guest and service vehicle parking for those homes that front these roads."* The lots will ultimately be owned and maintained by the Briar Chapel Community Association. The surface material to be used, asphalt, concrete, or gravel, etc, has not yet been determined, but, will be one that is impervious. Per the

engineer's letter, "The proposed parking area within each of the three lots to be converted to parking will not exceed the permitted impervious area for each lot" so the overall impervious surface allowed within the development of 24% will not be increased.

None of the lots proposed to be converted from residential to common area is an Affordable Housing Lot. Per the engineer, the reduction of three lots does not affect the requirement of the Conditional Use Permit that 2.5% of approved lots in the overall development, or each phase if developed in stages, must be affordable housing lots. There are currently 19 affordable housing lots out of 624 residential lots which will still result in 3.04% of the lots being affordable. Briar Chapel is requesting that the Affordable Housing Fee paid per lot of \$460.44 be refunded for the three lots. For tracking purposes, staff recommends refunding the Affordable Housing fees paid for the three lots.

Briar Chapel is requesting that the Recreation Exaction Fee paid per lot of \$926.00 be refunded for the three lots. For tracking purposes, staff recommends refunding the Recreation Exaction Fee paid for the three lots. In the letter dated January 12, 2012 Briar Chapel also requested that the water availability fees paid of \$3500.00 per lot be refunded. After discussions with the Utilities Department, Briar Chapel is now requesting that the water availability fees be credited to the next phase of the development. This is acceptable to the Utilities Department.

Financial guarantees are currently in place for construction of Phase 4, Section 3 and Phase 5 North. This request will not affect the financial guarantees.

Per Lee Bowman, Project Manager, appropriate landscaping will be utilized to soften and screen the parking areas based on the specific location of each lot and currently no lighting is planned for the lots. Staff has received two letters from concerned property owners regarding conversion of the residential lots to parking areas (see attachments 3 & 4). Both property owners have expressed concerns that the conversion of the residential lots to parking areas will not alleviate the parking problems, will cause loss of property values, and that the use of the lots for parking will cause a safety issue. Staff thinks that the issues raised regarding loss of property values and safety are private issues between the residents and the developer. Per Lee Bowman, Project Manager, the Briar Chapel private covenants allow the developer to make this type of change and Mr. Bowman has stated that once these parking lots are in place giving residents a place for overflow parking, that the homeowners association will begin to enforce the no parking regulation within the development. The Planning Board discussed the issues raised by the adjoining property owners and which of the three lots already had existing development nearby. The Planning Board discussed eliminating lot 246 since it appeared to have more existing individual residences nearby (not owned by the developer/builder). The Planning Department thinks that the request for the three lots to be converted from residential to common area to accommodate overflow parking is reasonable to help alleviate the no parking requirement on Great Ridge Parkway and Briar Chapel Parkway and to help alleviate the concerns expressed by North Chatham Fire Department regarding emergency vehicle access for the project. Staff has provided photos of the lots and surrounding neighborhood for reference as an attachment.

Since the Planning Board meeting, Nicolas P. Robinson, attorney for the developer, has submitted an e-mail to staff dated February 23, 2012, stating that the developer has decided to remove Lot 246 from the request.

Staff recommends that the final plats include the parcel #'s for the subject lots and that the vicinity map for Phase 5 North be more detailed to better show the location of the Phase.

Per Mr. Bowman, future submittals will include accommodations for off-street parking when necessary.

The Planning Department recommends granting approval of the request by Briar Chapel for Phase 4 and Phase 5-- Conversion of 3 existing Lots, #'s 246, 446, and 480 to Common Area to accommodate off street parking with the following conditions:

1. The Recreation Exaction Fee and Affordable Housing Fee for Lots 246, 446, and 480 be returned to the developer.
2. The Water Availability Fees for Lots 246, 446, and 480 be credited to the next phase of development.
3. The final plats shall include the parcel #'s for the subject lots.
4. The final plat for Phase 5 North shall show a more detailed vicinity map for Lot 480.

The Planning Board (with a vote of 9-1) recommends granting approval of the request by Briar Chapel for Phase 4 and Phase 5—Conversion of 2 existing Lots, #'s 446 and 480 (the Board did not approve Lot #246) to Common Area to accommodate off street parking with the above four (4) conditions. Conditions 1 & 2 are revised to remove Lot #246.

Nick Robinson, Attorney, explained that there are two aspects to their decision to take Lot #246 out-of-play in this request. 1) There has been some consternation from the Planning Board. 2) They were going to use the time, after having taken this out, to figure out if there is another way to do it, a better way to do it, or if they want to return later, and the need presents itself, and resubmit it to convert it from a lot into a common area used for parking. He stated that they do not agree that the County can prevent this, as it is a matter of private covenants between the owner of the land, the developer, and those who buy lots stating that the covenants are explicitly clear that the developer can take a lot at any time and convert it into common area. They do not, is the fact that they withdrew Lot #246 from this request to somehow be later used as precedent that the County gets to determine which lots in Briar Chapel are used as common lots. In the future, if the need arises and they want to resubmit Lot #246 as a possible conversion to a satellite parking area, they would want to return with a fresh start on it.

Commissioner Kost moved, seconded by Commissioner Cross, to approve the request by Mike Sanchez, P.E., John R. McAdams Company, Inc. on behalf of Briar Chapel for Phase 4 and Phase 5 – Conversion of three (3) existing Lots #446, and #480 to common area to accommodate off-street parking with the four conditions as follows:

1. The Recreation Exaction Fee and Affordable Housing Fee for Lots 246, 446, and 480 be returned to the developer.
2. The Water Availability Fees for Lots 246, 446, and 480 be credited to the next phase of development.
3. The final plats shall include the parcel #'s for the subject lots.
4. The final plat for Phase 5 North shall show a more detailed vicinity map for Lot 480.

Commissioner Petty asked Commissioner Kost if she would amend the motion to add Lot #246, if there were no problems, at a later date. Commissioner Kost replied, no; that she would want to reevaluate it then stating that she doesn't see a potential problem, but she would not put it in a motion.

The County Attorney stated that from a subdivision plat standpoint, they would need to come back to the Board of Commissioners.

Mr. Robinson stated that with respect to the use, he doesn't think the County can control it; however, with regard to the plat, they do.

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

PUBLIC HEARINGS

Miscellaneous:

Public Hearing for Telecommunication Tower Search Ring: Public hearing to receive public comments on a request for search ring approval from Matthew Danielson with Raleigh Towers to locate a telecommunications tower within the northeastern portion of the County

Mr. Sullivan explained the specifics of the request stating that the public hearing is the first step in a two-part process to receive comments on a site location for telecommunications towers in the County. The search ring process is an annual review of all new proposed cell towers. The purpose is to coordinate the siting of new cell tower locations to avoid duplication of service areas. The search rings cover a half-mile area and do not include a site-specific location. They are only evaluating whether there is a need within this one-half mile area for a new cell tower at this point.

Mr. Sullivan answered questions from the Board.

The Chairman opened the floor for public comments.

Frances Henville-Shannon, 1420 Marsalis Way, Cary, NC, stated that she lives within walking distance of where this tower would be placed; that it is a good plan because there is little cell service; and that everyone that currently lives there struggles to get a cell signal.

Michele Eichelberg, 140 Gosling Way, Cary, NC, stated that she also lives within walking distance of the proposed site; that she has seldom been able to use her cell phone at home which forces her to have a land-line; that the community will be built-out in 2013 and have 1,500 homes; that the community is virtually uncovered by reception; that it doesn't matter which carrier a person is with; that cell phone towers should be going in when the development is built; and that she has been to many different forums on this issue and this is the first concrete plan.

The Chairman closed the public hearing.

Legislative:

Public Hearing For Text Amendments to Section 10.13 of the Chatham County Zoning Ordinance: Public hearing to receive public comments on a request by Kent Dickens for a text amendment to the Chatham County Zoning Ordinance to add boat storage facility and recreational vehicle storage to the list of permitted uses under the Industrial Light and Industrial Heavy zoning classifications

Angela Birchett explained the specifics of the request to add boat and recreational vehicle storage as permitted under the Industrial Light and Industrial Heavy zoning classifications. They have reviewed the table of uses, stating that there are other types of storage facilities listed as permitted in those districts. At this time, Staff has no concerns with proceeding with the request.

The Chairman opened the floor for public comments.

There was no one present who wished to make public comments.

The Chairman closed the public hearing.

Public Hearing for Text Amendments to the Chatham County Zoning Ordinance: Public hearing to receive public comments on a request by the Chatham County Board of Commissioners for text amendments to the Zoning Ordinance to modify the following sections as described below:

Section 3, Revise the bona fide farm exemption

Section 4, Districts Established – Delete references to districts that will change to conditional zoning districts

Section 5, Conditional Use Districts – Change section to refer to new requirements for conditional zoning districts

Section 7, Definitions – Modify definitions

Section 10, Schedule of District Regulations –Revise to refer to new conditional zoning districts

Section 11.3, Environmental Impact Assessment - specify that environmental impact assessment is only required for non-residential projects and mixed use districts

Section 13, Lighting – allow internally-illuminated signs, delete amortization requirement for vehicular canopy lighting

Section 15, Regulations Governing Signs – Specify that signs in the right-of-way are regulated by NCDOT

Section 17, Conditional Use Permits – Revise procedures

Section 18, Board of Adjustment – delete Table 2

Section 19, Amendment to Zoning Ordinance – Revise provisions for parties that can apply for a rezoning, specify different procedures for citizen-initiated amendments and county-initiated amendments

Section 20, Enforcement – delete stop work order, clarify issuance of Notice of Violation

Section 21, Penalty for Violations – delete stop work order

Section 23, Effects Upon Outstanding Conditional Use Permits – add procedure for termination of conditional use permits

Section 29, Index – delete entire section

Ben Howell, Planner, explained the specifics of the request stating that the primary purpose of the amendments is to switch our current process from a Conditional Use Rezoning Process to a Conditional Zoning Process. He explained the table summarizing the amendments. He explained each of the different sections.

The Chairman opened the floor for public comments.

Liz Cullington, 390 Rocky Hills Road, Pittsboro, NC, presented her comments to the Board and provided them in their entirety for the record as follows:

“This board may describe these changes as a way to ease the way for small business, but this is being done through sweeping changes that seem to profit large developers the most, and to create a two-tiered system under which some large projects with a large impact don’t have to meet the minimal requirements still in place for smaller ones.

I don’t believe the majority of residents understand the impact of your plan to get rid of future, even current conditional use permitting in most cases. In the past projects and uses that normally couldn’t be approved even WITH rezoning could be approved under binding conditions, and with provisions to enforce that agreement.

Also, if conditions are recommended by the planning board in future, the applicant can now make a case against them directly to the Board, but the planning board couldn’t respond. So those conditions, if any, could be vaporized. Is it possible for a planning board to deny an application because recommended conditions might be scrapped? This throws the entire planning process into chaos and if it’s legal, it still reeks of the potential for corruption of the Board.

Similarly, another change means that uses not allowed in a particular zoning district except with a conditional use permit can now be allowed without one as long as they are 'determined to be equivalent uses'. The proper procedure is altering or expanding the Table of Uses, after a public hearing."

Jacob Terrell, 225 Cassidy Lane, Chapel Hill, NC, stated that he felt one of the amendments was in response to the application which he filed (and subsequently retracted) for the County-line site where the proposed WalMart is going. He stated that apparently no one had done this before and there were some additional stipulations made after he submitted the application. He was not comfortable with them so he retracted the application; that the application was not malicious in its intention or to be spiteful; it was submitted on behalf of several members of his community who believe that the site is improperly zoned; that there is a problem in the County in that there is a written Land Conservation and Development Plan which references a plan map, but there is no plan map; that all they have is an existing zoning map which, in many instances, does not align with the intent and purpose of the plan; if the intent of the planning effort is to guide development to appropriate locations and to protect citizens investment in property, we are not doing an adequate job; having a huge business in this location is not ideal; it is not sited along a side road creating a dead-end effect so that all the traffic it generates will be dumped onto or across Highway #15-501; it is too close to the low and medium density housing that surrounds it. He respectfully requested that the Board of Commissioners consider a small-area study of the 15-501 Corridor north of Pittsboro and implementation of a plan map for this area that aligns with our Land Conservation and Use Plan before further mistakes are made.

Mr. Howell answered questions from the Board.

The Chairman closed the public hearing.

Public Hearing for Text Amendments to Sections 11 and 22 of the Countywide Lighting Ordinance: Public hearing to receive public comments on a request by the Chatham County Board of Commissioners for text amendments to sections 11 and 22 of the Countywide Lighting Ordinance to allow internally-illuminated signs and delete the amortization requirement for vehicular canopy lighting

Mr. Howell explained the specifics of the request stating that the changes for the proposed Lighting Ordinance are the same as the lighting section in the Zoning Ordinance. It specifies that internally illuminated signs are permitted provided that the message or letters of said sign consist of non-reflective materials and to remove the vehicular canopy amortization clause.

The Chairman opened the floor for public comments.

There was no one present who wished to make public comments.

Mr. Howell and Mr. Sullivan answered questions from the Board.

The Chairman closed the public hearing.

Public Hearing for Text Amendments to Section 7 of the Chatham County Subdivision Regulations: Public hearing to receive public comments on a request by the Chatham County Board of Commissioners for text amendments to sections 7.2 and 7.7 of the Subdivision Regulations to clarify Conservation Subdivision Standards and review procedure

Mr. Howell explained the specifics of the request stating that the amendments clarify the procedures and standards for Conservation Subdivisions. One change is relating to the road standards clarifying that they have to follow the County road standards if they build a private road. The second primary change is in the Conservation Subdivision section clarifying that the land that they prohibited to build on (flood plains and stream buffers) can be included in their conservation space; however, that land is taken out of their overall land

when the density bonus is calculated but can be included in their 40% conservation space set aside. The procedure was also clarified.

The Chairman opened the floor for public comments.

There was no one present who wished to make public comments.

The Chairman closed the public hearing.

Public Hearing to Rezone Acreage from R-1 Residential to CU-NB Conditional Use Neighborhood Business: Public hearing to receive public comments on a request by George Farrell on property located at 306 McGhee Road, Parcel #74986, to rezone approximately 2.096 acres of the 10.01 acre tract from R-1 Residential to CU-NB Conditional Use Neighborhood Business, Williams Township

Ms. Birchett explained the specifics of the request stating the location of the property and the request to rezone approximately 2.096 acres of the 10.01 acre tract from R-1 Residential to CU-NM Conditional Use Neighborhood Business. She stated that the Planning Staff has no issues with the zoning request.

The Chairman opened the floor for public comments.

There was no one present who wished to make public comments.

The Chairman closed the public hearing.

Evidentiary - Quasi-Judicial Public Hearings:

The Chairman administered the oath to those in attendance who wished to make public comments on the following items.

Public Hearing for Conditional Use Permit for Boat and RV Storage Facility: Public hearing to receive public comments on a request by George Farrell on property located at 306 McGhee Road, Parcel #74986, for a conditional use permit for a boat storage facility and recreational vehicle storage facility on approximately 2.096 acres of the 10.01 acre tract, Williams Township

Ms. Birchett explained the specifics of the request stating that the request is a conditional use permit request for a specific use of a boat storage facility and a recreational vehicle storage facility. Mr. Farrell has met with the Appearance Commission who has reviewed the site plan. They had some additional recommendations with which Mr. Farrell agreed to comply. The Planning Staff has reviewed the application. She asked Mr. Farrell some clarifying questions.

The Chairman opened the floor for public comments.

Shelia Leviner 501 McGhee Road, Chapel Hill, NC, presented her comments to the Board and provided them in their entirety for the record as follows:

“I come here tonight in protest against the RV/Boat storage purposed on McGhee Road. I am speaking tonight on behalf of three other land owners on the road that protest this as well. We are concerned about the decrease in our land and home values and that this may cause rental property to be harder to rent. Presently we have storage buildings at the entrance of our road and sometimes it is difficult to get in and out of the road because we have to wait on storage trucks and landscaping trucks to get in and out. Our road is very narrow and that also concerns me with meeting trucks and boats. Lastly, this is very personable. I have lived on this road my whole life and have no plans on leaving. I chose to buy land from my grandfather to preserve my heritage. I did not want to live in a development. I want to raise my children around their family and in a quiet, safe, peaceful area away from lots of traffic and confusion. I wanted my children to be proud of where they grew up.”

George Farrell stated that they had grown up in the area too and that he had spoken with the three landowners about which Ms. Leviner was speaking. He stated that the other landowners were alright with the boat storage; that they care about the road; his mother is going through some financial difficulties and is about to lose her home and land; this is an easy way they can help her and preserve the remainder of her land; there are going to be no lights installed; the traffic will be minimal; the site on Highway #64 accommodates 90 boat spaces and average 1.5 visits per day; they are one-mile from a boat ramp which will make it a safer route for people who have boats; and that this is a way to preserve the other properties on the road.

Mr. Farrell answered questions from the Board.

The Chairman closed the public hearing.

Public Hearing for Revision to Existing Conditional Use Permit for Jessie Fearrington: Public hearing to receive public comments on a request by Scott Thomas, on behalf of Jessie Fearrington, for property located at the corner of US 15-501 North and Morris Road, Parcel #65232, to remove approximately .322 acres from the existing Conditional Use Permit to be recombined with property owned by the North Chatham Fire Department

Ms. Birchett explained the specifics of the request stating that it was a request by Scott Thomas on behalf of Jessie Fearrington for a conditional use revision. They have an approved Conditional Use B-1 property located at the corner of US #15-501 North and Morris Road. There are approximately forty acres, but only sixteen acres are approved for commercial development. They are reserving a portion of the property on which to locate a sign. Their only concern is in Finding #1, the zoning district would change, which is an incorrect statement. The zoning will not change and will still be Conditional Use B-1. Once they subdivide this portion, they will have no permitted uses on the portion deeded to the fire department. The remainder of the area would still be under the CUP for the fire department.

Scott Thomas, 1413 Log Barn Road, Pittsboro, NC, stated that he would be glad to answer any questions.

The Chairman opened the floor for public comments.

Commissioner Kost asked why the fire department needs this piece of land.

John Strowd, 4041 Mt. Gilead Road, Pittsboro, NC, stated that when the roads were realigned, the road was still part of NCDOT and was never closed. He stated that they are looking to close the road due to safety reasons.

The Chairman closed the public hearing.

Public Hearing for Conditional Use Permit for Daycare Center: Public hearing to receive public comments on a request by Talitha Sanders and Ellen Martin for a conditional use permit on Parcel #75481, located at 235 Easy Street, Baldwin Township, on 4.564 acres for a daycare center for 15 or fewer children

Angela Birchett explained the specifics of the request stating that this is a Conditional Use Permit request for a five children or fewer daycare. They have met with the Appearance Commission and the applicant has agreed to comply with the conditions. Modifications have to be made. She asked if they would be living in the structure, as there may be other State requirements, if they are not living on the premises.

Andy Osterlund, Architect, stated that the applicant will limit the request to five children or less in the house. He stated that the maximum number of trips to the house is twelve trips per day and that NCDOT was not concerned regarding this use for the house. Noise would be restricted. The house currently has a tenant who lives in the house and one room is reserved for that purpose.

Commissioner Kost asked if the house would have one room rented for the tenant and the remainder would be a daycare or if the owner would live there.

Talitha Sanders stated that her partner and she own both properties, including the property next door where she has been living. They use the proposed daycare house for different things. Because she has been made aware of the residential requirement for the daycare, she stated that for the five days per week which would have children there, she would sleep there to meet the requirements.

Ms. Birchett stated that this would not be a zoning rule. Staff has made it clear (Building Inspections, Fire Marshal, Environmental Health) that if the owner of the property is not residing in the mobile home, then it cannot be used for commercial purposes. There will be a significant amount of expense and time wasted by the applicant if that is a problem.

Commissioner Petty asked if living at the residence for only five nights per week would exclude Ms. Sanders from being her permanent residence. Ms. Birchett stated that it needed to become her primary residence.

Ms. Sanders stated that she had tried to clarify the definition of a “permanent resident”. She asked if she would be required to spend every night there or if it would be a majority of nights.

Ms. Birchett stated that the general proof of residency would include tax records, driver’s license, and where you receive your mail.

Mr. Osterlund stated that there is a statement in their application which was reviewed by Al Davis (Building Inspections). The North Carolina Building Code regards the building as an R-3 single family residence. He stated that he doesn’t believe that living in the residence would be a requirement for the use of this property as a daycare center. He stated that Mr. Davis agreed with this assumption on February 15th and agreed that, with fewer children, it would not be specifically reviewed by the Building Inspections Department.

Ms. Birchett referenced a letter written by Mr. Osterlund on February 17th stating that the single family residence, category R-3, was permitted for daycare of up to five preschool children without a change of use. She stated that she spoke with Mr. Davis who said that during their conversation, he did not recall being told that it was a manufactured home which does not follow the building code. It follows the HUD Home Requirements. She stated that Mr. Davis could come before the Board to testify if the public hearing was continued.

Robert Franklin, 265 Easy Street, Pittsboro, NC, voiced concern regarding the road. He stated that he and Mr. Bright have done the pothole repair in the road for the last four years, not for compensation, but to be a good neighbor. There are thirteen families now living on the narrow road. Once there are another 5-10 cars per day, there will be more damage. He doesn’t think it will be a safe environment for children as emergency units would have a hard time getting to the location. He asked if there would be zoning changes which would affect his property value in the future.

Debra Bright, 124 Bingo Street, Pittsboro, NC, voiced her concern with regard to the road. She stated that she has been a childcare provider for over twelve years; that she doesn’t think this house is an appropriate place; that if you have kids in a home, you can have two, but if the number increases, it turns into a childcare center with many more regulations; and that the drive through that area will be difficult for the other residents. She stated that she is a supporter of quality childcare, but not in this location.

The Chairman closed the public hearing.

BREAK

The Chairman called for a short break.

Public Hearing for Revision to Existing Conditional Use Permit for Briar Chapel: Public hearing to receive public comments on a request by NNP Briar Chapel, LLC for a revision to the existing Conditional Use Permit for the Briar Chapel compact community to clarify certain language, acknowledge certain completed commitments, and revise the master site plan to provide additional flexibility with the remaining undeveloped lands, Baldwin and Williams Townships

Ben Howell, Planner, explained the specifics of the request stating that it is a revision to the existing Conditional Use Permit for Briar Chapel to clarify certain language and to revise the Master Site Plan. Based on the application submitted, Staff has reviewed this application and the original approved 2005 Conditional Use Permit and has several concerns. He reviewed the Staff concerns and submitted the packet into evidence as follows:

Briar Chapel CUP Amendment
Planning Department Evidence

Revised Master Plan/Sketch Design Comments

- Clearly Address Roberts Property on Half Dollar Road
 - Will 2005 CUP continue to govern this property?
 - Address how any of the following, with regard to Roberts property, may change:
 - Impervious Surface Calculations
 - Density and Overall Number of Units
 - Access to BC property on West side of Roberts property
- Revised Master Plan does not meet the requirements for Sketch Design in the Chatham County Subdivision Regulations that govern this development
- Commercial Component of Development
 - The term “Commercial” is not defined as related to uses that will be allowed
 - The County has commercial and office uses listed for non-residential Zoning Districts in the Table of Uses in the adopted Chatham County Zoning Ordinance.
 - Address inconsistencies regarding amount of non-residential uses and types of non-residential uses in 2005 Conditional Use Permit application (incorporated herein by reference) and this amendment.

Proposed Conditional Use Permit

- Correct inconsistencies between Section IV-4 of the Application and Condition 1 of the proposed CUP with regard to completion/expiration date. [Condition 1]
 - “Twentieth anniversary” language could be refined – provide specific date for CUP expiration
- Environmental Quality Department agrees with buffers required by Compact Communities Ordinance; states Jordan Lake Buffer Rules do not apply; requests updated impervious surface calculations per phase; request to review stormwater plans and permits submitted to or issued by the state. [Conditions 3, 4]
- Chatham County Fire Marshall states Condition 5 can be removed.
- Briar Chapel has and shall continue to comply with applicable County Zoning Ordinance standards – Lighting, Signage, Off Street Parking and Loading, Landscaping and Buffering. [Condition 6]
- Public Works & Utilities Department requires review and approval of any utility easements. [Condition 7]
- Integrated Architectural Guidelines and Contextual Guidelines shall be submitted for review by the County; Chatham County Appearance Commission Guidelines shall apply to non-residential uses (Compact Communities Ordinance Section 12.4). [Condition 8]

- Chatham County Fire Marshall and North Chatham Volunteer Fire Department (NCVFD) are very concerned about the street widths in Briar Chapel with regard to on-street parking and access for fire-fighting apparatus. [Condition 11]
- Chatham County Public Works & Utilities states that Briar Chapel should follow the Chatham County Water Availability Fee Ordinance. [Condition 13]
- Chatham County Public Works & Utilities has accepted the Water Storage Tank and site (See Attachment 6); NCVFD is concerned about proposed Fire Station/EMS Site because of lack of utilities and possible expansion restrictions; the County Manger's office has concerns about the proposed payment in-lieu of a library site and/or facility. [Condition 14]
 - Statement at end of Condition 14: "Applicant shall be deemed to have completed requirements as stated above in subsections (a) through (f).
- Landscaping/Screening requirements in the Zoning Ordinance and Chatham County Appearance Commission Design Guidelines only apply to non-residential uses; all perimeter/viewshed buffers shall meet Compact Communities Ordinance requirements. [Condition 15]
 - Re: Tripp property – use parcel # instead of name; possible to receive sign-off from landowner that requirement has been met?
- The Chatham County Historical Association agrees that the Archaeological Survey has been completed, but would like to continue working with Briar Chapel to preserve any historically-significant features and/or structures in the subdivision. [Condition 16]
- The Chatham County Solid Waste and Recycling Division stated that residential curbside recycling and solid waste pick-up, management of construction debris and non-residential solid waste removal by a licensed removal company should continue. [Condition 17]
- With required review by County staff prior to receiving permits, the submitted master plan revision may be considered appropriate. [Condition 18]

Other Comments

- NC Department of Transportation states that a comparison of generated traffic by this proposed amendment and the June 2004 Traffic Impact Analysis should be reviewed.
- Application states that Briar Chapel will provide land and/or office space for a satellite office for the Chatham County Sheriff's Office. The Sheriff's Office has stated that they continue to have a need for office space in this area of the County.
- Compact Communities Ordinance Compliance response states that "all commercial establishments shall be pedestrian-accessible to community residents." Planning staff wish to clarify that this requires the developer to construct pedestrian facilities (such as sidewalks) along public roads outside of the development to outlying commercial areas.

Nick Robinson, Attorney, 128 Hillsboro Street, Pittsboro, NC, thanked Mr. Howell for his thorough review. He presented his comments to the Board and provided them in their entirety for the record as follows:

"Honorable Commissioners, Planning Board Members, County Manager, Attorney and County Staff, thank you so much for this opportunity to present our public hearing testimony in connection with the Amendment to its Conditional Use Permit requested by NNP-Briar Chapel, LLC.

My name is Nick Robinson. I practice law here in Pittsboro at Bradshaw & Robinson, LLP, 128 Hillsboro Street. I am here on behalf of the Briar Chapel in support of its requested amendment. I'm joined tonight by Keith Hurand (Senior Vice President and Division Manager) and others from the Newland team at Briar Chapel, as well as by our

professional consultants, Colin Greene (land planner), Lucy Gallo (economic impacts), Richard Adams (traffic), Chris Huysman (environment) and Jennifer Stanton (retail impacts). Each will testify for a moment this evening and will be available for any questions you may have.

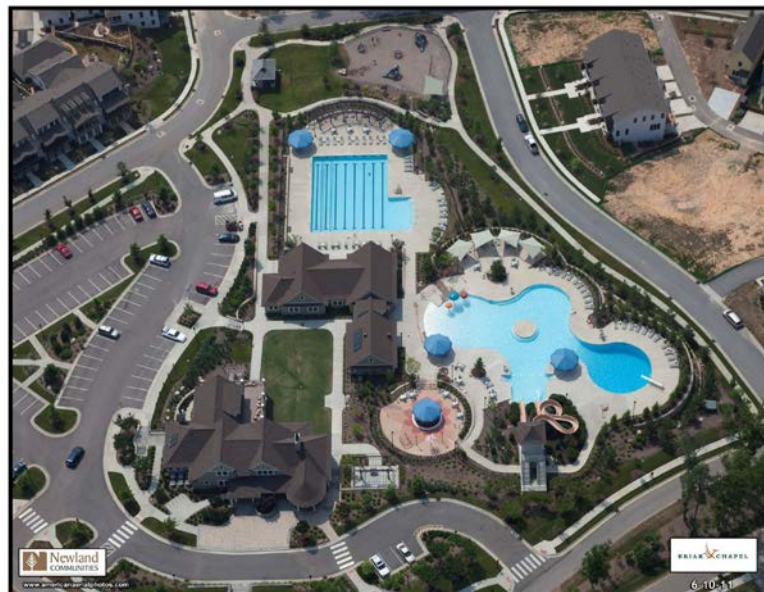
Before we get to that, though, I think it's important to acknowledge that some of you here in attendance tonight on behalf of the County were not in your respective County positions when Briar Chapel was approved in February of 2005. So, I would like to take just a few moments to summarize the impressive journey taken to get from that permit approval date seven years ago to tonight.

Briar Chapel has accomplished amazing things in the interim.



Main Entrance

Since 2005, even though many other developers and developments in Chatham County have closed down, Briar Chapel had the wherewithal to redouble its efforts and forge ahead, creating the beginnings of a vibrant, integrated and remarkable compact community in the heart of northeast Chatham County.



Community Center



Community Center

Briar Chapel has been an economic engine for Chatham County. 255 homes have been built and occupied in the last three to three and a half years and a total of 627 lots have either been constructed or are presently under construction. This has added over \$84,850,000 to the Chatham County tax base to date.



Homes

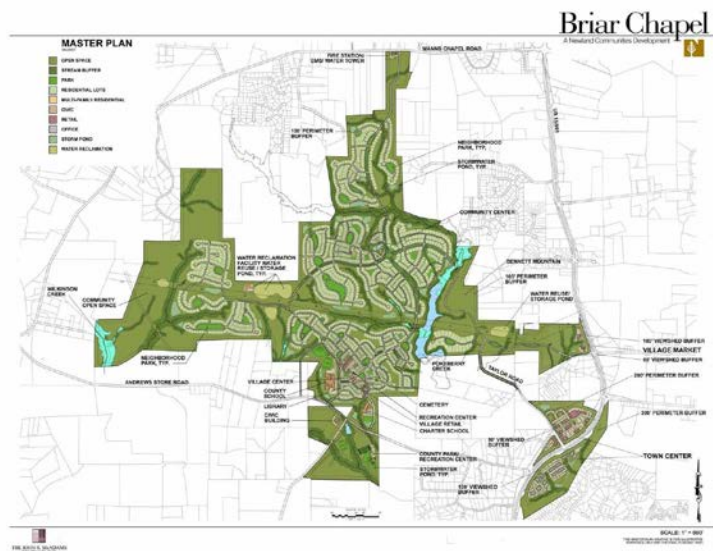
Briar Chapel ranks in the Top Selling Communities in the Triangle

Subdivision Absorption Ranking (Top 25) <i>Raleigh - Durham Market Summary</i>							
Starts Rank	Subdivision / Community Name	Housing Type	Active Builders	Price Range (in thousands)	Annual Starts	Annual Closings	Market Area
1	Heritage Wake Forest*	Mixed	26	\$136-\$754	209	209	Northeast Wake
2	Amberly*	Mixed	14	\$146-\$526	183	188	Chatham
3	Highland Creek*	Mixed	1	\$105-\$305	103	111	Northeast Wake
4	Briar Chapel*	Mixed	11	\$177-\$600	96	98	Chatham
5	12 Oaks*	Mixed	22	\$200-\$1,000	04	82	Southern Wake County
6	Ashton Hall (Durham)	Single Family	2	\$186-\$260	92	77	Durham County
7	Inside Wade*	Mixed	1	\$169-\$374	81	23	Raleigh
8	Brier Creek Country Club*	Mixed	2	\$222-\$750	72	83	Durham County
9	Davis Village*	Mixed	1	\$169-\$334	71	69	Southwest Wake County
10	Evans Farm	Single Family	1	\$270-\$306	67	48	Southwest Wake County



Homes

Briar Chapel has been an integral corporate citizen in the community. With a significant percentage of the total acreage permanently dedicated to open space, Briar Chapel has set the standard for environmentally conscious development in Chatham County.



With almost half of the 26 miles of planned public access trails already constructed, Briar Chapel has blazed the trail for encouraging active and environmentally conscious living in Chatham County.



Open Space/Trails



Open Space/Trails

To date, as part of its CUP obligation, Briar Chapel has contributed over \$288,700 to Chatham County for the benefit of Chatham Habitat for Humanity and has constructed 18 lots for moderate income housing.

For four years in a row, Briar Chapel has hosted the Earth Day 5k and the Pittsboro Pepper Festival, helping to raise significant sums for the Abundance Foundation.



**Community Involvement
Earth Day / Annual 5K**



**Community Involvement
Earth Day / Annual 5K**



**Community Involvement
Pepper Festival**

Briar Chapel has supported in many different ways a long list of local charitable endeavors including:

- The Abundance Foundation
- Margaret Pollard Middle School and Woods Charter School music programs
- Triangle Off-Road Cyclists
- Chatham County Arts Council
- Green Home Builders of the Triangle
- United Way of Chatham

I want to pause here for a moment and say that, in this case, there is more than meets the eye. Briar Chapel does not believe that just writing checks is how to become a good corporate citizen. Its philosophy is to integrate its community and residents with these sustaining endeavors so that they are simultaneously creating a sustainable, attractive and diverse community and also attracting residents that understand and support the causes.

In addition, the Briar Chapel staff has committed itself to becoming integral in the Chatham County community. Just to name a few examples:

- Mr. Hurand, Senior Vice President and Division Manager, is a member of the Chatham County Economic Development Board. Briar Chapel has made a \$100,000 pledge to the Chatham County EDC over a five year period.
- Mrs. Kristy Yule, a Regional Vice President, is on the Abundance Foundation Board and is also serving on the Woods Charter School Foundation Board
- Mr. Lee Bowman, the Briar Chapel Project Manager, serves on the Affordable Housing Advisory Committee North Chatham as well as on the SECU Advisory Board. In addition he is the Briar Chapel representative on the Briar Chapel

Communications Committee that meets every two months with the Fearrington HOA, the Haw River Assembly, and Chatham Citizens for Effective Communities.

This is just a glimpse of the many ways in which Briar Chapel has demonstrated its desire to integrate into Chatham County and to be a real part of helping where it can help with existing priorities in the County. This is not a nameless, faceless developer. These are real people that are truly integrated into our community.

It is against that backdrop, that Briar Chapel seeks to amend its Conditional Use Permit to make practical changes that will update the permit to current time and status and also modify the master plan from a static picture to a utilitarian planning tool for a unique and significant Compact Community, the only one of its kind in the County.”

Mr. Robinson continued with the development to date, explaining the original Briar Chapel Master Plan and different locations on the map. He reviewed the proposed and revised Master Plan stating that all they are asking is to make changes to the site plan with regard to what is yet to be developed. They want to stay the same. The total number of units allowed in Briar Chapel is 2,389 (unchanged); open space (unchanged); all approved buffers (unchanged); maximum impervious surface allowed (unchanged); trails and recreational features (unchanged); wetland and other environmental protections and commitments (unchanged). They are asking to update the Conditional Use Permit to bring it into current time as far as what they have already completed and clarify the requirements that remain, and to propose to modify the Land Use Plan to make it a more effective planning tool for the remainder of the build-out at Briar Chapel.

He reviewed the written discussion of what they are seeking to change. He referred to the Dollar parcel which was originally approximately 26 acres. Fifteen plus acres have been sold. Mr. Dollar continues to live on the remaining eleven acres. On the original application, the Dollar’s signed on to the Conditional Use Permit, but the land was not under contract to be sold to Briar Chapel but was subject to a right of first refusal in favor of Briar Chapel because Mr. Dollar wanted to continue living there. When the application was about to be filed, they tried for many months to negotiate the purchase of the Dollar Land, but were unable to reach an agreement. All owners signed the Conditional Use Application to allow for the changes except for the Dollar’s representatives. Since they cannot be required to sign on to the amendment, it meant that that they have to plan around that segment. There is no part of the land that is landlocked. They spent a lot of time with the stakeholders to try and determine if there was anything of which they had not thought or to hear the voices of those that might be impacted by a change in the Land Use Plan at Briar Chapel. He stated that he doesn’t think that anything that Mr. Howell mentioned is insurmountable, but they will need time to work through those issues. The meetings held resulted in helpful information being surfaced by nearby residents. He stated that the evidence submitted will support the making of the required five findings for a Conditional Use Permit and also the amendment requirements under the Zoning Ordinance and they are incorporating, by reference, all of the materials from the prior application and everything submitted tonight that was submitted on February 15th.

Colin Green, Land Planner, stated that this is the 2005 site plan Briar Chapel and is a tool that has delivered the beginnings of a great community; that the team needed to develop a planning tool to predict the later phases and still remained flexible; that they stripped the old plan and used the basic structure; and they used their model and examined Briar Chapel in terms of zones that vary in usage, buffers, and density.

Nick Robinson stated that he had submitted to Mr. Howell public resumes for each of the speakers. He stated that lacking in the original approval is the precise clarity in the approval documents from 2005 about the exact amount of commercial square footage. He stated that they believe it ranges between 512,000 square feet to 522,000 square feet or more to include both office and non-office commercial. They have decided to limit it to 510,000 square feet.

Lucy Gallo, stated that she had reviewed the report in conjunction with the proposed amendment and has concluded that the positive fiscal and economic conclusions reached are unchanged by this amendment.

Commissioner Kost asked about the number of school children that is now less than originally projected. She asked if the number of children attending charter schools was considered. Ms. Gallo stated that it included total public school enrollment in Chatham County and was provided by the Board of Education. She stated that she would verify it with the Board of Education.

Richard Adams, Kimley Horn Traffic Engineer, stated that the traffic study was done in 2004 and is still valid. He stated that they looked at three things with regard to the amendment: 1) Village Center – The retail center would be the same or less for trip generation for 10,000 square feet of retail. 2) Town Center & Village Market – The trip generation will not increase with retail and commercial on Highway 15-501 with CUP amendment. 3) Homes – They confirmed that the total homes are still capped at 2,389 which is the same number as in the original CUP and there will be no increase in traffic or requirements for roadway improvements.

Commissioner Kost asked if this would address Mr. Bailey's updated traffic analysis request. Mr. Adams stated that he had confirmed it with him and he feels that they are ok.

Chris Huysman, Environment Impact Specialist, stated that after having reviewed the wetland permits and all of the environmental documentation has determined that there are no changes in the environmental impacts.

Jennifer Stanton, Retail Advisory Services President, stated that having interior retail can work with flexibility; that in 2005, embedding retail in development was popular; that she recommends caution and stated that flexibility is a must; that all retail needs to be visible and accessible in its location and in its market it needs incoming density; that retail is definitely an amenity to help attract office users as it is an economic development tool; and that access to the greater market is critical.

Mr. Robinson asked to incorporate the resumes of each of the witnesses into the record.

Lee Bowman, Briar Chapel Project Manager, stated that he familiar with the status of the project and the Conditional Use Permit requirements that have been completed to date. He has read the proposed revised CUP submitted with the application to amend. The proposed revised CUP is consistent with his understanding of the obligations under the CUP that have been completed. He reviewed three deeds to be incorporated into the record, Woods Charter School Deed (filed on July 18, 2007), Margaret Pollard Middle School Deed (filed on October 27, 2008), and water tank site deed (filed on December 7, 2009). The property has been conveyed and accepted and the improvements have been made by the recipient of the property.

He stated that over the past 1 ½ years, they have been working with County Staff to finalize the closing documents to advance the park site. As of today, the County has all of the pertinent documentation needed for the closing, and he expects the closing to happen very soon. He also stated that they had had several meetings with the North Chatham Fire Department regarding the site over the past few months. They are prepared to deed that site to Chatham County as soon as possible.

Mr. Robinson stated that there are a few concerns that have been raised with regard to the fire and EMS station as they are new to them. He expects that they will soon be able to give a better report in reaction to what has been stated in tonight's submittal.

Mr. Robinson reported on the status of the library site stating it is their understanding, with the County having just opened a new library in Pittsboro, they are unsure if they would want a library site located in the center of the development. There are some very specific

deliverables with respect to the library site: 1) Briar Chapel agreed to donate a .58 acre site (\$20,000 value); 2) Agreed to clearing, grading, pad for building, water and sewer service (\$20,000 value); 3) Agreed to constructed parking area, base paving and curbs (\$32,000 value), and 4) Sewer system allocation for spray fields, spray irrigation (\$8,000 value). This totals an \$80,000 commitment by the developer to be directed toward a library. The developer has proposed and seeks feedback on the proposal of tendering \$80,000 to the County \$80,000 and asks the County to approve the contribution in lieu of a library site.

Mr. Robinson addressed concerns with regard to the Dollar property and the exclusion of it: 1) Where or not they could maintain an impervious surface maximum even without the acreage. ANS: Yes, they will still comply with the maximum impervious surface allocation. 2) Can we still meet the maximum density requirements of the compact community despite the elimination of ten acres or the minimum density requirements: ANS: Yes, to both questions. The ten plus acres constitutes a very small percentage of the total acreage. 3) In connection with the exclusion of the Dollar property from site, how the access issues would be addressed. ANS: There is an access along the southern portion to get to the main part.

Mr. Robinson reviewed changes to exhibits and clarified language and amendments to their application. He asked that everything they have presented tonight, including the deeds and documentation regarding the library, be admitted into the record. He stated that as part of the quasi-judicial hearing, they have the right to object to hearsay and to inadmissible testimony, and in lieu of objecting in the middle of comments, he asked to enter a generalized objection at this time to hearsay and incompetent evidence. He stated that they object to any opposition evidence that is tendered to the extent that it is hearsay, incompetent, immaterial, or antidotal to the extent that the standing of any party does not meet the standard of an interested party as defined under the Conditional Use Permit Rules. He reserved the right to make additional objections. He also reserved the right to respond at the end of comments to make the record complete. He thanked the Board for their attention further stating that he hoped the true and genuine impression has been conveyed in that NNP Briar Chapel and Newland Communities, the Board is dealing with a gem of a developer. They have come to respectfully request that they be given a little flexibility with regard to how to layout the future of Briar Chapel.

Tami Schwerin, 4479 Pittsboro-Moncure Road, Moncure, NC, presented her comments to the Board and provided them in their entirety for the record as follows:

I have been a Chatham County resident for over 20 years. I've been a small business owner, helped found Chatham Marketplace Cooperative, and also began a non-profit focusing on local food, renewable energy and community. I've been very active in this community, and I do love it here!

I first worked with Briar Chapel when we approached them about supporting our new grocery store co-op. They were happy to purchase blocks of ownership shares to give out to their new residents as they moved into the community. This was a perfect way to welcome people into the community of Chatham while at the same time giving some financial assistance to the new co-op. We were very appreciative.

Later down the road as we were getting the Abundance Foundation started we were beginning a local food and sustainable agriculture festival, The Amazing Pittsboro Pepper Festival. With the help of Briar Chapel, we took it from about 40 people to over 1000 this past year. We expect it to keep growing and to keep Chatham County at the forefront of Sustainable Agriculture in the nation. We are known for our local food, small organic farms and of course peppers!

It not only took money, but expertise and I'd like to recognize Briar Chapel and Newland for:

- Supporting what they believe in
- Doing what they say they are going to do

- Offering not only funding, but guidance and other ways of helping
- Introducing their residents to all the cool things happening in this county.
- They not only support The Abundance Foundation and Piedmont Biofarm, but the Arts Council, Triangle Offroad Cyclists, local businesses and the Chatham County Schools.

Our latest project is bringing in local celebrity chefs to work with the lunch staff in all 17 schools and create new better tasting and locally sourced lunches. Briar Chapel was crucial to getting this off the ground last year and all 8000 of our Chatham kids are going to be better off because of it! (not to mention the staff and administration).

Again, I'd like to say that Briar Chapel and Newlands' have been very good corporate citizens to this community, and I hope you will take that into consideration when reviewing their plans."

Angelina Koulizakis, 2347 NC Highway 751, Apex, NC, stated that she supports the Briar Chapel request; they have been an excellent citizen; they have helped her shop; and they have been a wonderful business partner.

Richard Oldham, with Sanford Contractors, 628 Rocky Fork Church Road, Sanford, NC, stated that he is a project manager and team member for Briar Chapel for the last six years; they constructed Woods Charter School, Andrews Store Road renovation, Chatham Parks project, Phase 5 South, Phase 5 North, and are currently working on Phase 6 North. Sanford Contractors employs approximately twenty Chatham County residents that have had a part in the construction of Briar Chapel. They worked with numerous developers throughout their time having been in business since the late 1960's and the Newland/Briar Chapel Team is topnotch. They treat everyone with dignity and respect and have the utmost integrity. They are excellent stewards of the environment and natural resources. They go beyond the bottom line. With the approval of this amendment, it will provide them the flexibility to continue forward in a progressive manner. He thought it would be very beneficial to Chatham County to approve this request.

Justin Bartholomew, 185 Granite Mill Boulevard, Chapel Hill, NC, stated that Briar Chapel has had a great relationship with Pollard Middle School. He stated that Briar Chapel helped the school get off the ground when they were in two separate locations; that they opened their doors and allowed teachers to use the facilities for staff development; that Briar Chapel made a donation to the Pollard Middle School Band and the band will play for the Earth Day celebration.

Richard Wilson, 130 Half Dollar Road, Pittsboro, NC, presented his comments to the Board and provided them for the record as follows:

"I am Richard Wilson. The Wilson family has owned our property on what is now called Half Dollar Road since the 1920s. My wife and I purchased an adjoining tract in 1962. At the death of my mother in 1985, I inherited additional land as the family farm was divided among my sisters and me.

Half Dollar Road runs through the Wilson homeplace and gives my sisters Billie Medlin and Lottie Wheeler, as well as me, frontage on Half Dollar Road. My property, the Richard and Margaret Wilson property, has over 2,500 feet contiguous border to Briar Chapel.

On the Briar Chapel map of the revised master plan of February, 2012, the middle portion of the map projects northward to Mann's Chapel Road. The red square on Mann's Chapel Road represents the Briar Chapel water tower. Approximately two inches below that symbol is a road in the white space on the left: Half Dollar Road. My property lines are to the north and south of Half Dollar Road where it joins Briar Chapel as indicated by the "W" written outside the Briar Chapel border on the enclosed map.

I am aware of the dispute between Newland Communities and the Roberts/Dollar family regarding their property at the end of the cul-de-sac on Half Dollar Road. The Newland property adjacent to the Wilson property is zoned CCUP. In addition, the Dollar property has been zoned CCUP since 2005.

It has come to my attention that Newland Communities is denying access to utilities to the Dollar property, making it impossible to comply with CCUP zoning. Inability to qualify for CCUP zoning will result in significantly diminished market value of this property.

On the map of the proposed amended master plan, the Dollar property is represented by the white island at the end of Half Dollar Road. Since the Dollar property is not technically in Briar Chapel, it might appear that the proposed amendment has no relevance. This is not the case. Extending the period of Newland development without granting proper utilities for CCUP zoning on the Dollar property propels the Roberts/Dollar-Newland dispute further into the future. Continuing conflict of these parties could negatively affect property values on all of Half Dollar Road.

If the Roberts/Dollar family does not desire the Dollar property to be inside Briar Chapel and zoned CCUP, I am asking that The Dollar property be zoned RA-40. It would qualify for RA-40 as a house on eleven acres with existing septic and water source and be consistent with the zoning of the Wilson Medlin-Wheeler properties. The economic value and interests of the Half Dollar community would be preserved.”

David Anderson, 13 Fallenwood Lane, Chapel Hill, NC, stated that he was one of the first residents to purchase a house in Briar Chapel. He stated that everything they were told at the time they signed their contract has come to fruition; that he appreciates them doing what they said they would do; that they bring a lot into the community for their residents to experience; that they are a responsible and respectful developer; and that Chatham County and Newland Communities did this right.

Walter McMiller assisting **Percy Fearrington**, 27 Taylor Road, Pittsboro, stated that in the discussion of the project amendment, he heard discussions about a number of neighborhoods in the general area. He stated that he did not hear what the developer had done in terms of communicating with a historically African-American community along Taylor Road; that he understands there is a request to move commercial component of this project out to and along Highway 15-501; that this would lock them in between the commercial development and number of institutional concerns that they have; that they will be significantly affected and it will affect current and present use as well as future use (traffic, parking, noise, light); and their family has been there for more than 200 years. He asked that the Board of Commissioners and developer would sit down with those families to address their concerns.

Doug Roberts, 5015 Pine Cone Drive, Durham, NC, presented his comments to the Board and provided them in their entirety for the record as follows:

“Our property is now scaled down to 11.49 acres (from 28 acres, conveyances made to Newland) and was rezoned to the CCUP in 2005. Parcel ID 74741 (1.21 acres) was not legally authorized by Newland to rezone. Statute of Limitations prevented us to hold to this as we discover this in 2011 (CCUP effect date in 2005).

My sister and I have no intention on making any further conveyances to Newland. This property is made reference to as the Dollar property, deeded to us by I.C. Dollar (stepfather) and Verble W. Dollar (mother). Our parents were victimized by an act of 'Undue Influence' to make several conveyances to Newland and have the remaining 11.49 acres subject to a 'First Right of Refusal Contract' that terminates in the year 2033. Again the Statutes of Limitations prevent us from taking legal action against Newland for this very serious transgression as it occurs in 2001. My sister and I discover this in 2007. (I will cover

the details of this later when I address I.C. Dollar's historical significance to his home place on Half Dollar Road).

In this 'First Right of Refusal Contract' the Dollars are required to cooperate with rezoning the property. As they sign this authorization form for Newland to 'act in their interest' in 2004 (parcel ID 2246 and no authorization form for parcel ID 74741), their property becomes CCUP in 2005. They were told their property would be getting city water, sewer and all the utility providers and structure, as their property was zoned as Briar Chapel. We had our attorney formally ask for access to these utilities. This inquiry and response are respectfully labeled EXHIBIT A, and EXHIBIT B. Since 2005 they have totally been pinned down. They no longer own the water and sewer rights commensurate with the zoning CCUP. They cannot list their property for sale on MLS to gain a 'Fair Market Value' offer, which would 'trigger' the First Right of Refusal Contract whereby Newland would have 90 days to match and close on the property. Technically this is not a 'First Right of Refusal Contract' as it is impossible to perform. We have been subject to phone calls from Lee Bowman (Newland) with very low offers to purchase. We just don't respond. Faced with no other legal remedy we are committed to keeping the property in the family. Chatham co can count on this matter continuing beyond any of our years. If my grandchildren are living here and going to school at UNC the family sees much greater value than anything Newland is going to yield. There can be serious consequences to a wide variety of Chatham County Planning objectives. I will now illustrate why the amendment to the CUP for Briar Chapel affects our property in negative ways; ie. conformity, real estate values, and will not promote the public health , safety and general welfare as stated in their proposal.

1. We are joined in the CCUP adopted by Chatham co in 2005. As there are extensions for construction completion dates that are extended in the amendment, they remain as is in the original CCUP that our property is still under. We are excluded in the amendment. We can enforce the expiration dates for the project as they are not changed. These extensions of time that also add to the expirations of the CCUP for Briar Chapel are not concurrent with the original CCUP that we remain under. Chatham co would be extending the duration of the dispute by adding to the period Newland would maintain interest in our property by having extensions of time by amendment to Briar Chapel property that surrounds us.

2. Per the MASTER PLAN REVISED, February 2012 our property is excluded from Briar Chapel. We are 'inside' the mandatory 100 ft buffer but we're 'outside' Briar Chapel as you arrive to our property at the end of Half Dollar Road. As we are excluded (and I am happy that we are) we are now a Briar Chapel Adjoining Parcel. In lieu of this permanent dispute, all the claims Newland makes in the amended CCUP WILL ONLY EXIST ON PAPER. THERE ARE TRAILERS IN BRIAR CHAPEL AND THERE WILL BE. THERE ARE SEPTIC SYSTEMS IN BRIAR CHAPEL AND THERE ALWAYS WILL BE. The objective of the Chatham County Planning/Zoning should be to illustrate on paper a means to transcend into reality. As it had to legally be resolved between another Adjoining Owner Parcel (Sandra Tripp VS Board of Commissioners, Sandra Tripp VS Newland) a 100 ft. buffer would have to be reflected in the perimeter of our property. As we have been denied the utilities required for CCUP, our property should be returned to RA-40 zoning, just as our fellow neighbors on Half Dollar Rd are today and always have been. The Medlin family has built a brand new home on Half Dollar Road that 'sets the bar' for a new standard. Richard Wilson has owned his property on Half Dollar Road since the 1920's. Since we have no realistic opportunity to be CCUP, Chatham County should return all the property lining Half Dollar Road to RA-40 and support an environment that protects my real estate value as well as my neighbors.

3. Denying us access to city water. This city water line runs right alongside our property through the land I.C. Dollar owned and conveyed to Newland and subsequently denied access to. Half Dollar Road WILL NOT HAVE THE ABILITY TO SERVICE PUMPER TRUCKS FOR FIRE PROTECTION AS CLAIMED IN THE AMENDED CCUP. BY OUR LOCATION, WE COULD KINDLE A FIRE THAT THREATENS THE ENTIRE BRIAR CHAPEL AMENDED CCUP PROPERTY. THIS AMENDED CCUP PROPERTY IN BRIAR CHAPEL IS IN OUR IMMEDIATE PERIMETER PRODUCING A FIRE THREAT.. TO US AS OUR PROPERTY WOULD NOT HAVE THE PROTECTION

NEEDED TO FIGHT IT. THIS DOES NOT PROMOTE THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE AS CLAIMED. TWO DOLLAR HOMEPLACES HAVE BURNED TO THE GROUND ON HALF DOLLAR RD IN YEARS PAST. The extensions in construction completion and the CCUP itself defined in the Amendment to the CCUP can/would lengthen period of time to the dispute. NNP Briar Chapel has expressed themselves to be the 'economic engine' of Chatham County. I ask the Board of Commissioners to help them achieve their goals for Briar Chapel and Chatham County as a whole, however I also ask you to protect us and our neighbors on Half Dollar Road from an amendment to the CCUP that deepens and extends the sword of oppression by profiteers that have no interest in promoting the health, safety and general welfare of Half Dollar Road property owners."

Chairman Bock asked Mr. Roberts if he was requesting water or rezoning.

Mr. Roberts stated that they formerly asked for water from Newland and were denied stating that they have no way of complying with the CUUP.

Harrell Rentz, Woods Charter School Principal, 108 Woodland Grove Land, Pittsboro, NC, stated that had Newland not come along with the Briar Chapel idea, they would still be moving along somewhere, but he was unsure where; that their gift of land gave them an asset which would have been difficult to acquire through normal operating circumstances; that they were then able to move into a new building in 2008 that reflected the quality of education on the outside that was going on in the inside; that for the last three years, they have been one of twelve charter schools in North Carolina that has had consistent high growth; that they have been an honor school of excellence for three years serving five hundred students (70% from Chatham County); throughout the last four years, Newland/Briar Chapel have delivered again and again. He stated that they are extraordinarily grateful for this community, for the support they have brought to their school, and he would like to publicly thank them for this opportunity.

Joe Glasson, 11408 Governors Drive, Chair of the Chatham County Economic Development Board of Directors Chairman, stated that 55 of our workforce work outside the County and 64 cents of every retail dollar spent by the residents of the County is spent outside the County. He stated that this is critical in terms of additional commercial retail space, on behalf of Chatham County and its citizens to be able to live and work within the same county; that there is a significant amount of capital invested by Newland in Briar Chapel; that they changed their marketing strategy and made it successful when the housing bubble was at its worst; and the Chatham County Economic Development Corporation supports this amendment.

Mark Ashness, 30020 Village Park Drive, Chapel Hill, stated that he had worked for Newland on scattered project and is an example of a Chatham County citizen that has benefited from the project as it has grown. He stated that traditionally in Chatham County, they have seen large lot development, some of those are 50-100 acre pieces of property, some used in agricultural use, and some in conservation use; there is a scattering of one to three acre lot subdivisions, and a scattering of conditional use projects. Briar Chapel is the only compact community project. Of the three groupings, the compact community is the one that gets the most scrutiny as Briar Chapel has in its previous conditional use request. It is vitally important for Briar Chapel to be able to change with the times. This project has brought forth substantial benefits to the County (Margaret Pollard Middle School, Woods Charter School, Andrew's Store Park). Briar Chapel has a real opportunity in the future. As Briar Chapel grows, north Chatham will grow and they will have the opportunity to spend their money locally. He stated that it is not always possible to anticipate all of the issues that will evolve as a community grows. In 2004, we didn't know what Briar Chapel was going to be. He encouraged the Board to support this project and the requested amendment.

Peter Winkler, 268 Hill Creek Boulevard, Chapel Hill, NC, stated that he is a resident of Briar Chapel. He was one of the first five families to physically move into Briar Chapel and followed the development and disputes that occurred as part of the commissioning of the project. He stated that he and his wife are proud to be a part of this

community. He stated that as a licensed real estate broker, when he was approached, as a resident, regarding the changes, he asked a lot of tough questions. He was very impressed that the cornerstones of the community that he bought into have not changed (number of units, open-space, and buffers), and that he supports the changes for which they are asking.

John Dunning, 46 Golfers Ridge Court, Chapel Hill, NC, stated that he was a builder in Briar Chapel so he thinks he has a unique perspective as he expects to soon be a Briar Chapel resident. He stated that the way Newland has conducted themselves professionally and communicated is second-to-none; that because of Newland/Briar Chapel, his oldest son gets to practice on a real football field; that he enjoyed watching his son play basketball in the beautiful new Margaret Pollard Middle School facility; that his two youngest children will be attending that school; that it has been fantastic for them from a family perspective. He stated that as a builder, he is probably still in business going through the great recession due to this community coming to Chatham County, and that he looks forward to future success.

Nick Robinson, Attorney, specifically objected to, in addition to his general objection to hearsay, to the one piece of testimony from Mr. Roberts that the Dollar's were told that they would receive water and sewer. He stated that he not seen or nor had shared with him the documentation that is the notebook Mr. Roberts provided.

Mr. Robinson summarized by stating Briar Chapel has invested tens of millions of dollars in generalized and direct infrastructure in Chatham County at this community. They have done so in good-faith reliance on their Conditional Use Permit and on the standards that apply to them. He stated that they are vested in those entitlements and that any changing of the entitlements or the regulations that relate to them at this point they would consider to be not allowed because they are vested.

He stated that he thinks it is amazing what the Board has heard to night, in particular, the parade of witnesses that has said without any cajoling or instruction, that Newland not only does what it says it is going to do, but Newland often goes above and beyond what it is going to do. That goes across the spectrum, with residents, people with whom they have contracted, with people who are builders, with people in the community. He asked the Board to keep that in mind as they work their way through the process of determining whether or not the five findings have been met and whether the change that is requested would be in the best interest of Chatham County.

Chairman closed the public hearing.

MANAGER' S REPORTS

The County Manager reported on the following:

Ratings for Resale of Loan:

The County Manager stated that the County has been reviewed again by the rating agency for the resale of our loan.

Vicki McConnell, Finance Officer, stated that the County sold their Limited Obligation Bonds today. With the sale, the County realized a savings of approximately \$128,000 per year on debt service payments. She stated that she was also happy to report that after phone conversations with Moody's and Standard and Poor's, we retained our ratings with both agencies, despite the Townsend closing. She thanked the County Manager, Assistant County Manager, and the Economic Development President for making it a success.

COMMISSIONERS' REPORTS

Resolution Honoring the Jordan Matthews Girls' Basketball Team:

Commissioner Kost stated that she would like to see the Board adopt a resolution at their next meeting honoring Jordan Matthews Girls' Basketball Team on their state championship.

Public Hearing on DENR Report:

Commissioner Kost reminded everyone of the public hearings on the DENR report to be held at the Dennis Wicker Civic Center, 6:30 PM, Sanford, March 20, 2012, and the second public hearing to be held on March 26, 2012, 6:30 PM, East Chapel Hill High School.

Tick Press Release:

Commissioner Kost asked Staff to prepare a press release on ticks stating that she thought there was a bumper-crop this year and it is a grave health concern and she would like for the County to be proactive in getting information out to the public.

By consensus, the Board agreed.

ADJOURNMENT

Commissioner Petty moved, seconded by Commissioner Cross, to adjourn the meeting. The motion carried five (5) to zero (0), and the meeting adjourned at 10:03 PM.

Brian Bock, Chairman

ATTEST:

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