

**MINUTES**  
**CHATHAM COUNTY BOARD OF COMMISSIONERS**  
**REGULAR MEETING**  
**NOVEMBER 19, 2012**

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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 November 19, 2012.

Present: Brian Bock, Chairman; Walter Petty, Vice Chairman;  
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; and 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 6:02 PM.

**AGENDA AND CONSENT AGENDA**

Commissioner Kost asked to move Item #11, Vote on Resolution Setting the Time and Place for Meetings of the Chatham County Board of Commissioners for Calendar Year 2013 to regular agenda.

Chairman Bock asked to add an appointment to the Planning Board.

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

1. **Minutes:** Approval of Board Minutes for the October 15, 2012 Regular Meeting, the October 15, 2012 Work Session and the November 5, 2012 Special Meeting

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

2. **Tax Releases and Refunds:** Vote on a request to approve the tax releases and refunds, attached hereto and by reference made a part hereof.

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

3. **Town of Pittsboro ETJ:** Vote on a request by the Town of Pittsboro to extend the extraterritorial planning jurisdiction (ETJ) to include property of Chatham Park Investors

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

4. **Annual Cell Tower Search Ring:** Vote on a request to set the annual communications tower search ring public hearing during the March 2013 Commissioners meeting  
The motion carried five (5) to zero (0).
5. **Naming of Private Roads:** Vote on a request to approve the naming of the private roads in Chatham County as follows: Iron Cross Creek Road and Three Springs Lane  
The motion carried five (5) to zero (0).
6. **Title X Family Planning Funds Reduction:** Vote on a request to approve a reduction of \$7,144 of Title X Family Planning Funds  
The motion carried five (5) to zero (0).
7. **Fire Hydrant Contract:** Vote on a request to approve and award a contract in the amount of \$119,187.00 to Mueller Service Company for the performance of Fire Hydrant inspection, maintenance, installation and repair, and authorize the County Manager to sign the contract on behalf of the County  
The motion carried five (5) to zero (0).
8. **Register of Deeds Records Retention and Disposition Schedule:** Vote on a request to approve the Register of Deeds Records Retention and Disposition Schedule, attached hereto and by reference made a part hereof.  
The motion carried five (5) to zero (0).
9. **Resolution adopting 10 Year Solid Waste Plan:** Vote on a request to adopt **Resolution #2012-\_\_\_\_\_ to Adopt the 10-Year Solid Waste Management Plan Update**, attached hereto and by reference made a part hereof.  
The motion carried five (5) to zero (0).
10. **Fire Prevention and Protection Ordinance:** Vote on a request to approve the updated 2012 Fire Prevention and Protection Ordinance  
The motion carried five (5) to zero (0).
11. ~~**2013 BOC Meeting Calendar and Holiday Calendar:** Vote on **Resolution Setting the Time and Place for Meetings of the Chatham County Board of Commissioners for Calendar Year 2013**~~

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

**END OF CONSENT AGENDA**

**PUBLIC INPUT SESSION**

**Beth Kricker**, 224 Buteo Ridge, Pittsboro, NC, presented her comments to the Board and provided them in their entirety for the record as follows:

“Board of Commissioners and People of Chatham County,

To the people of Chatham County, my heartfelt thanks for all your efforts last Tuesday, but the subject I would like to deal with tonight is regulation. A corporation in Massachusetts produced a pain medication to deal with back and spinal injuries and chronic ailments.

They processed, packaged, shipped and billed, pleasing their Board of Directors no end, particularly the billing part. There was one problem. No one was minding the store. There was no one standing by to test for contamination in the processing process. Spinal Meningitis now rages throughout our land. Thirty people have so far died. More are expected to.

In Camp Lejeune, water contamination went undetected for years causing cancer in adults, leukemia in their children. A few biologists conducting appropriate tests could have saved much suffering and death among our military and their families at Camp Lejeune.

In Chatham County an Industrial plant which borders Mt. Gilead Church Road and Sugar Lake Road fronting 800 existing homes is seeking a change in zoning from non conforming residential to heavy industrial, alongside new developments such as The Hamptons where homes are being built, some at a starting price of \$900,000.

If this zoning change is granted what are the chances of Hampton's developer finding buyers who view hundreds of open diesel trucks crowding their road alongside the view of smoke stacks and the rattle of factory noise going day and night. What happens to the property values affecting all the homes in proximity to the plant and our potential for the smart growth we are all seeking?

Yet, most importantly how would it be possible to avoid the inevitable increased contamination of our water and our air that heavy industry inevitably brings and left mostly uncontrolled?

Thank you.”

**Joseph Drust**, 178 Henry’s Ridge Drive, Pittsboro, NC, presented his comments to the Board and provided them in their entirety for the record as follows:

“Good evening. My name is Joseph Drust and my wife and I reside at 178 Henry’s Ridge Road in Pittsboro. I come to you this evening as a result of a letter we received from the North Carolina Department of Environmental and Natural Resources, pursuant to ground water contamination detected in our area and a requested authorization to test my water. This now more than a year after we built a new home in the Henry’s Ridge subdivision. The water will be tested for chemicals such as trichloroethylene also known as TCE and perchlorethylene or PCE. Although these are highly toxic chemicals and known carcinogens, testing for these chemicals as you all know are not required to obtain a well permit.

Obviously we are very distraught and distraught is an understatement for the following reasons. First we were not notified for contaminated ground water in our area. Second we have been using possibly contaminated water for drinking, cooking and bathing. Third our water was never tested for these chemicals under the existing water testing ordinances. Fourth the contaminated site is still operational. Fifth we would have never built a home here if we had known the circumstances which are now having health and economic repercussions in our lives. Sixth until the threat of contamination is removed, we will constantly be in fear that our water will be contaminated at any point in time.

The current situation has resulted in irreparable and I mean irreparable harm to my family and those living in the area of contamination. From both the health and economic perspective the status quo cannot continue and a remedy is required. The following is what we would like to see done. The Board of Commissioners should exercise their power to promote the public health, safety, and general welfare of the in its jurisdiction. Second, keep heavy industries out of residential areas and closely monitor those that exist for public health and safety. Third require well testing for TCE and PCE in the known 12 contaminated sites in Chatham County. This is not only an issue for my wife and the residents in our community but for all the residents in our county. And fourth and the most important to me and my family, is that you provide safe drinking water to my residents and other residents in the area of contamination. I look forward to the Board of Commissioners actions regarding the serious public health issue that has now come to light. Thank you for your time.”

Commissioner Kost asked if he said there were twelve contaminated sites in Chatham County.

Mr. Drust said thanks to the recent work done by NBC 17, the list of over 2000 sites in North Carolina is on their website. Commissioner Kost thanked him for that information.

**Scott Spinka**, 274 Henry's Ridge Road, Pittsboro, NC, presented his comments to the Board and provided them in their entirety for the record as follows:

"Good Evening Commissioners and thank you for this opportunity to chat with you. Like Joe Drust, I live in Henry's Ridge Subdivision, and I also received the same type of letter from the NC Department of Environmental and Natural Resources regarding well sampling. I have a few questions versus a lot to say. My first question is I understand that this contamination that is at this particular site has been there more than ten years. So I ask you as the Commissioners is how is that possible, what have you done about it, how bad is it, is my drinking water safe, is the problems I have had with the health of various members of my family attributed to this water? There are a number of issues that really concern me about the situation, and it concerns me that Chatham County has known about it for more than ten years."

Commissioner Kost stated that she learned about it as part of the Wooten rezoning, but she knew nothing about this until two months ago.

Mr. Spinka stated that on top of all of this, there is the potential that the Board might rezone that locale from residential to heavy industrial stating that he doesn't know how to respond to that.

Commissioner Stewart asked how long Mr. Spinka had lived there and if his letter said that his water was contaminated.

Mr. Spinka stated he had lived there for five years. His wife got breast cancer three years ago. The letter said that they wanted to test his water. He stated that he is aware that the site has been contributing to this issue.

Commissioner Stewart asked if the site was there prior to his moving there.

Mr. Spinka replied yes, but no one told him the site was there or that there was any contamination or industrial activity going on over there. He stated that he also thinks the Board of Commissioners had something to do with allowing that subdivision to be built.

**Meredith Jones**, 300 Henry's Ridge Road, Pittsboro, NC, stated that he also lived in Henry's Ridge and is a neighbor of Mr. Drust and Mr. Spinka and he was not contacted to have his well tested. He has lived there about four months and was unaware of any potential contamination until they started having discussions and it came about that there was going to be heavy industrial zoning. He wanted to let the Commissioners know that we are all in the same boat. There are a lot of neighborhoods surrounding that area and that property. He is interested in what can be done to have that cleaned up as quickly as possible. If it cannot be cleaned up or won't be cleaned up is interested in what the County will do or can do in those residential areas to provide these people with safe water since they will not be able to use their wells.

Commissioner Petty explained that while it is not customary to respond the questions during the public input portion of the meeting, he believed there may not be another opportunity to speak to so many people at one time; therefore, he wanted to take the time to respond to some of the comments. He stated the information presented to the Commissioners was new information. There has been no official request made to the Board as far as rezoning. The site has been there a long time, but they did not know there was contamination, as the contamination that is there, was not done by the current resident of that site.

**Gary Smith**, 49 Bartlett Drive, Pittsboro, NC, stated that he received one of the letters from NCDENR on November 1, 2012 and unfortunately he was not very surprised. He stated that he has been involved over the last three months working with our community to organize resistance to ST Wooten's application for rezoning for a concrete batch plant. In the process of that organization and research, they have come to find out a number of things that the over three hundred homeowners, bought in the early 2000's, who were aware that the plant was there, but were not aware that it would expand as it has. Many of you on this Board have heard about the noise pollution from this plant. Within the last three years, the ST Wooten plant has begun 24/7 operations. Most of the summer operations begin at 10 PM to 5 AM. They have recorded sounds outside of their 36 acres that exceed 80-90 decibels at 3 AM, which is an ongoing issue. They also learned most disturbingly about the contamination which occurred back in the late 80's and early 90's when the NCDOT ran an asphalt testing site prior to ST Wooten's purchase of the plant. It occurred through the use of solvents used to test asphalt. When ST Wooten purchased the site in 2000, the TCE contamination had already been documented. NCDOT took responsibility for it, targeted a number of chemicals in the ground, and started a remediation process. The County was informed of that in early 2003 shortly after County agreed not to contest ST Wooten's lawsuit to expand the plant. They have documentation from Board of Commissioners' meeting in January 2003 when the chairman of the Board of Commissioners said the County would monitor NCDOT's remediation efforts. That has been ongoing for nine years. NCDOT has remediated less than 12 pounds of TCE. They spent almost one million of tax payer money in this remediation. The contamination has increased almost tenfold in its movement across the ground water and soil in this area. They understand that it isn't something the County can control, but what we want as a community is the County's support in working with all of the parties involved in finding a solution. The NCDOT is trying to remediate the effort. Wooten has agreed to talk with us and other parties to try to find a way to remediate it. That is what our primary concern is. He asked how they find a solution to a problem that all inherited and what they can do about it as quickly as we can.

Commissioner Stewart stated that it sounds as if it was the responsibility for the NCDOT to continue to monitor your water in that area for residue. She asked if this is the first time they have received notification that they were going to be testing and from a legal standpoint, were they supposed to be doing this all along.

Mr. Smith said from a legal standpoint the NCDOT was only required to drill monitoring wells on the existing site and monitor contamination. They have, over the past five years of which they are aware, monitored the two adjacent homeowners to the 17 acre site. There are two pieces of property owned by ST Wooten, 36 acres asphalt plant and 17 for the proposed concrete expansion, that TCE contamination has expanded across those 17 acres. It is within 400 feet documented of the Mitchell property which is about 500 feet from his house. NCDOT and DENR began monitoring some wells for the first time only this summer; they have not found TCE, but have found other chemicals associated with asphalt production. This testing has been expanded from the adjacent lots to .5 miles from the asphalt plant operation.

Commissioner Stewart asked if Mr. Smith had reached out to the state to find out what action they are going to take.

Mr. Smith stated he had talked to both NCDOT and DENR repeatedly, but unfortunately, as many state agencies do, they blame each other for the issue. He stated he wanted to know how as the County citizens and government get together to make the state do something. NCDOT has admitted liability. Wooten knows they are responsible as the landowner for remediation of that property. The citizens have got to get it remediated before there is irreparable damage, further damage to devalue property values.

**George Lucier**, 628 Redbud, Pittsboro, NC, added that one of the monitoring wells showed in October 100-fold elevation beyond what is considered safe. One of the monitoring wells has moved more than 800 feet off site. The plume is moving with TCE and some chemicals that have been detected are not the responsibility of the NCDOT, but are the responsibility of the ST Wooten Corporation.

He congratulated Commissioner Kost and Commissioner Cross on their re-election. He also urged the Commissioners to pass a resolution and stated that he would be willing to help draft, to congratulate the Board of Elections and the folks that work for them on the wonderful job they did. Chatham County had the highest voter turnout in the state at 76.1% and Wake County was a distant second at 73%. The turnout was great and Chatham County did not experience the same sort of problems that many other counties experienced. He stated that when you have such a smooth operation you have to see who made that happen. That was the Board of Elections and the people that work in that office. He said as being the number one County in the state in voter turnout, a resolution should be passed saying thank you and keep up the good work and fantastic performance.

By consensus, the Board agreed.

Commissioner Kost asked that the Chairman talk with the County Manager about having someone from DENR to update the Board on this situation, let them know who received letters, and what they can do with regard to public awareness so that we all know what we are up against. She stated that we have to get some information as people's lives are being impacted.

The County Manager agreed to do so.

### **BOARD OF COMMISSIONERS MEETING AND HOLIDAY CALENDAR**

#### **2013 BOC Meeting Calendar and Holiday Calendar: Vote on Resolution Setting the Time and Place for Meetings of the Chatham County Board of Commissioners for Calendar Year 2013**

Commissioner Kost stated that the January 14, 15, and 23, 2013 meetings are not budget work sessions, but are "Budget Summit" or "Budget Retreat". Also, she stated that she would like to add May 6, 2013, 6:00 PM, for the Budget Presentation as discussed previously. Additionally, she asked that a footnote be added stating that the Budget Work Sessions will be held in late May or early June.

Commissioner Kost moved, seconded by Commissioner Petty, to adopt **Resolution #2012-\_\_\_\_\_ Setting the Time and Place for Meetings of the Chatham County Board of Commissioners for Calendar Year 2013**, with the noted changes. The motion carried five (5) to zero (0). The calendar is attached hereto and by reference made a part hereof.

### **PLANNING BOARD APPOINTMENT**

Chairman Bock explained that the Planning Board Appointment on the afternoon Work Session was moved to the night's agenda.

Commissioner Petty moved, seconded by Commissioner Stewart, to appoint Tom Glendinning to the Planning Board.

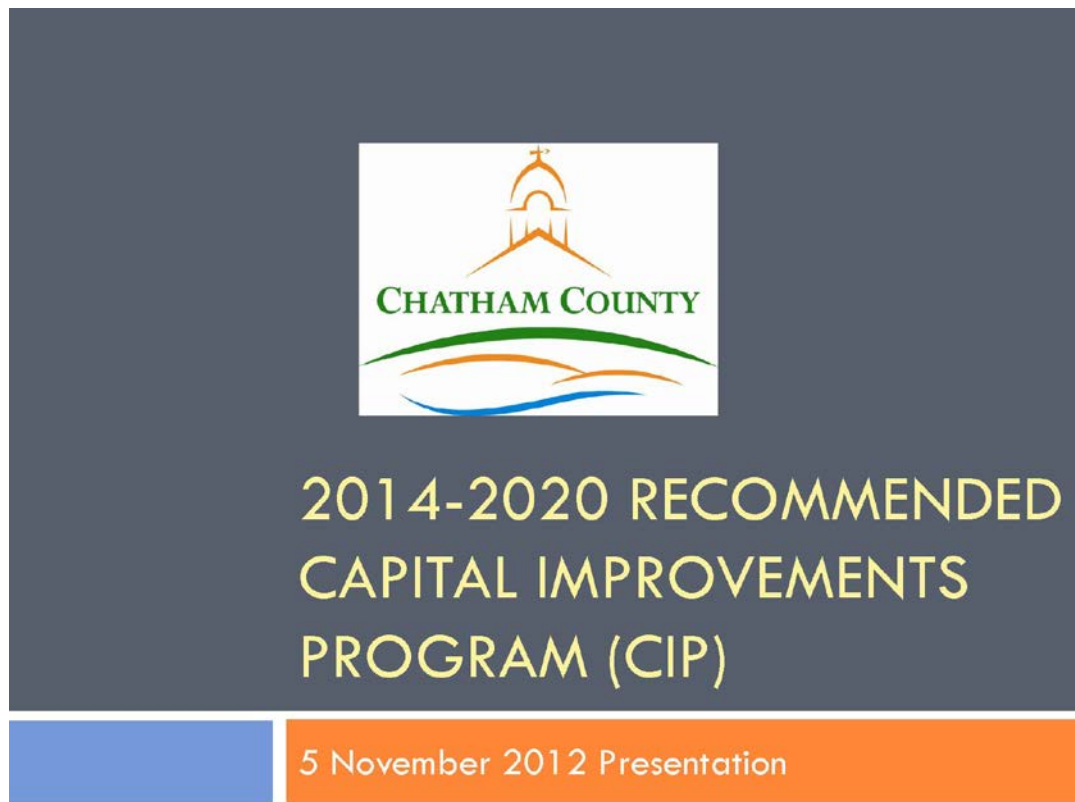
Commissioner Kost stated that earlier when this was discussed, she shared her concerns, not about Mr. Glendinning, but her concerns that many of the County boards are becoming full of men. She stated that she thinks it is important that advisory boards of the Board of Commissioners have diversity both in gender and race. Our Planning Board has only two women which is not representative of the demographics of the community. All four applicants were qualified. She nominated Tammy Phillips for the Planning Board position because the person who is being replaced on the Planning Board was one of three women, now leaving only two.

Chairman Bock called the question. The motion carried three (3) to two (2) to appoint Tom Glendinning to the Planning Board with Commissioners Kost and Cross opposing.

## **PUBLIC HEARINGS**

**Capital Improvements Plan (CIP):** Public Hearing to receive public comments on the Recommended 2014-2020 Capital Improvements Plan

Renee Paschal, Assistant County Manager, reviewed the Recommended FY 2014-2020 Capital Improvements Program and presented a PowerPoint as follows:



## County's Process



- County staff presenting a recommended capital improvements program (CIP) today
- **Public input is an important goal** of the Board of Commissioners, so that is the **first step** in reviewing the plan and the purpose of the public hearing; the public hearing has been set for **November 19 at 6 pm**; document will be available tomorrow in county's 3 libraries and on the website
- Following public input, Commissioners will hold a work session (scheduled for **November 20**) to review plan in detail
- Staff's goal is an adopted **revised** plan in **December** and a published document shortly afterwards



## Why the hurry?

- The operating budget process starts in early January, leaving staff little time to prepare an adopted CIP document
- **Commissioners can opt to spend more time reviewing the capital budget;** staff would recommend additional work sessions in late November and early December
- By following this schedule last year, staff was able to produce an **approved CIP document** prior to beginning work on the operating budget



## New Projects

- Agriculture Center [\$12.2 million]; recommended for 2019; requires additional ¼ cent contribution to debt reserve
- Schools (in priority order)
  - Additional school roof replacements [additional \$4.5 requested, \$2.7 recommended]
  - Joint county/bus garage [\$7.1 million]; still recommended as a future project because we lack a funding source; exploring options for reducing costs
  - Renovation of high school locker rooms [\$400K]; requested in 2020, recommended as future project
- Replacement of Solid Waste & Recycling Office [\$1.7 million]; recommended for 2018 from WM fund balance
- Recreation Center; not recommended; no cost data or funding source



## New Projects



- ▣ Next Generation 911; recommended as future project; technology still not available
- ▣ Emergency Radio System Replacement; recommended as future project; technology and regulations are still evolving

## Other Future Projects (still)



- ▣ Animal Shelter Expansion and Renovation
- ▣ Northeast Library\*
- ▣ Public Health Building—recommend establishment of a capital reserve from excess Medicaid cost settlement funds\*
- ▣ Renovation of former jail
- ▣ Schools - Chatham Middle Expansion\*
- ▣ Schools - New Northeast Elementary School\*
- ▣ Schools - Replace Gymnasiums at Bennett, Silk Hope, Bonlee\*
- ▣ Water District - Southwest Water District Distribution Lines Construction

\*These projects require debt financing & impact the debt model

## Funding Strategy



- Fund large, needed facilities through debt:
  - School debt to be repaid from impact fees, lottery proceeds, debt reserve, and restricted sales tax
  - Water debt to be repaid from water capital reserve
  - Other debt to be repaid from **5.75** cents on tax rate going into reserve [increase of \$0.25 cents for Agriculture Center]
  - Debt model is based on these funding sources
- Fund smaller needs through fund balance/capital reserve, as this source is available; schedule in CIP should be considered tentative

## Funding Strategy



- Maximize grant opportunities (parks)
- Fund parks through grants, recreation fee, and capital reserve
- Fund northeast solid waste collection center through capital reserve



## Fund Balance

- ▣ Board adopted new policy to transfer undesignated fund balance greater than 22% into capital reserve to fund CIP
- ▣ Currently, with FY 2013 appropriation, undesignated fund balance is 19.6%--so none available to transfer
- ▣ This problem will reoccur with the level of fund balance appropriation
- ▣ We will discuss during the Nov. 20 work session

## Board of Education Priorities

	Project	Requested FY	Recommendation
1	Replacement of school roofs	2014-2020	4 additional roofs recommended; 5 already done thru QSCBs; 2 already scheduled in CIP; leaving 10 not addressed (4 are < \$100K)
2	Joint county/bus garage	2020	Future, fund when \$ allows (capital reserve?)
3	High school locker rooms	2020	Future, fund when \$ allows

- ▣ All existing projects stay on schedule, including the NE High School, opening in 2017

## Next Steps



- Questions?
- Feel free to send questions or requests for additional information to Lisa/Renee
- Next Steps:
  - Public hearing on November 19
  - Work session on November 20

The Chairman opened the floor for public comments.

**Lynn Mann**, Chairman of Chatham Soil and Water Conservation, 1486 Manco Dairy Road, Pittsboro, NC, stated he is a fifth generation farmer on the same place and second generation dairy. He spoke in favor of the new agriculture center stating that the current agriculture building has been an excellent building and has served the County well. He stated that there is no other place big enough to hold many meetings and events. There are some serious issues with asbestos in the ceiling and in the floor of which everyone is aware. There are also parking issues. The extra parking due to the new Justice Center has helped; however, many days you cannot find a parking spot and the building isn't handicapped accessible. If anyone wants to get in the offices on the top level, they have to come around downstairs to the elevator. If they are lucky enough that the little elevator is working, then they can go to the offices upstairs. If the elevator is not working, then someone has to come outside to meet with them and it creates a lot of problems. It would be excellent to have an Agriculture Center and put all areas of agriculture in one area. Agriculture is growing in the County. Since 1988, they have brought 9.5 million dollars into the County. All of those monies were cost-share monies that probably would not have come to the County if they had not made it available.

**Charles Lutterloh**, 323 L & W Lane, Pittsboro, NC, President of the Board of Directors of the Chatham County Farm Bureau, spoke in favor of a new agriculture center. He stated that they have approximately 4,000 members. The possibility of a new agriculture center is very exciting to most farmers. The average age of most of our farmers is pretty high. They are seeing some young people interested in farming these days and have some new people coming in. It would be a great benefit to anyone in the farming community to have a new agriculture center. He stated that they cannot farm today like our grandparents did a hundred years ago with technology changing all the time. The Cooperative Extension is bringing new programs to the farmers all the time. The FSA is something that we really need in Chatham County. A few years ago they were talking about trying to move it to Sanford. We need to keep it in Chatham if at all possible and a new facility would help the situation. Soil and water conservation is very important to everyone in Chatham County especially to the farmers. It is another tool that the farmers have available to them. He stated that he is afraid when the new Judicial Center gets going, it is really going to be hard to find parking spaces and even harder for the older folks to get in the building and do their business here. We stated that they would wholeheartedly welcome a new agriculture center.

**Patti Liegl**, 145 Bald Eagle, Pittsboro, NC, presented her comments to the Board and provided them in their entirety for the record as follows:

“I apologize for not coming to you earlier. I am sorry there is not an animal adoption center proposal up there looking out eight years from now. I want to talk to you about what I see going on compared to when we came here in 1997. John and I came here in 1997 from

Pitt County. I am not bad mouthing Pitt County but there were mama dogs and cats all over. You go to WalMart and see Ferrell colonies there. I don't want to see that happening here. It is starting already on the western side. I don't see if on the eastern side as much. I work for the school system so I do travel. Now for all the positives: I work for the school system as a speech language pathologist. I work with classes at Northwood, Silk Hope, and Chatham Middle. I have a variety of academically gifted, down to not severe and profound but some autistic students. I have four rescue dogs, all from Chatham County. I had 6 cats and now I am down to 4 because cats live to be 20 years plus. It is amazing, just showing them pictures on my laptop, how open they will be to communication when they are going through an animal. We all know we love animals; it just touches everyone's heart and soul. An adoption center would be perfect for our basic life skills class and for our OCS training classes. We've got the some ladies talking about their regular education students needing community service hours. An adoption center would just be a win-win situation for all."

**Sally Bassett**, 929 Berry Patch Lane, Pittsboro, NC, presented her comments to the Board and provided them in their entirety for the record as follows:

"I moved to North Carolina from New England four years ago and I am deeply troubled by the number of dogs wandering loose without tags clearly lost and homeless. I always try to stop and retrieve every animal I can and if I can't I will call animal control. In fact I have their number on speed dial. It is a hard decision to either bring an animal to the shelter or to call one in when I know there is a high probability that they will be euthanized. However it seems like a better choice than to let them run free when there is a good chance they will get injured and will be cold and hungry. I would love to take in every animal I find and my son often asks me and I say honey I can't take in a new dog every week. I have three rescue dogs and two rescue cats of my own. Unfortunately there are too few options for these homeless and unwanted pets through no fault of their own. I have often felt helpless and unable to help until I heard about this wonderful organization Guardians of Angels. I fully support their efforts in helping fill this critical need in this community. With their help and your support perhaps we can provide an environment that encourages long term pet adoptions and public education and training that would help to reduce unwanted animals in this community."

**Greg Lewis**, 78 Lauren Rose Lane, Pittsboro, NC, spoke in favor of an animal center. He stated that his family has three dogs a couple of cats, all adopted. Probably two years ago, a dog came on our property and they called Animal Control, and called everyday to find out about the dog. Within a few days we found out they had euthanized the dog. This summer they found another dog, and did not call Animal Control. They went to every vet they could between Siler City and Pittsboro to see if anyone had claimed a lost dog. No one had so they found out the dog had not been tagged in any way. They held the dog until they found a home for it. They did not want it to be euthanized. He stated that he is present because he thinks we need an adoption center. He stated that he is here because he is a business owner. He owns The Roadhouse across the street, and he thinks it would be good for the County and for its people, and good for businesses to have something else in the town to draw people in. He stated that it is his understanding that the County recently purchased land down by the college, and it is my understanding the Guardians of Angels are only asking for about five acres of that land to help them get started.

**Tommy Glosson**, 738 Mt. Olive Church Road, Pittsboro, NC, stated that he was pleased to come to speak to the most important people in Chatham County, our Chatham County Commissioners. He stated that he has been on the Agriculture Extension Advisory Committee for many years. This building has served them well but it is old and outdated, and we really need a nice Agriculture Center. He stated that he couldn't say enough good things about what an Agriculture Center would do for agriculture stating that he has statistics about what agriculture brings to Chatham County but he wouldn't bore everyone because the Board already knows. Agriculture is the biggest generator of money for Chatham County, agriculture and forestry. He doesn't know of any other building in Chatham County that has been used as long as this one without any renovations. At one time, he stated that he knew how many buildings the County owned. Out of twelve buildings, this is the oldest. He stated that we really need a new Agriculture Center. The County has land close by. If one goes to

Lee or Harnett County, you can see that they have festivals and they make money for their county. They put on shows and contribute money back to the county. It doesn't cost the county a thing. He stated that this is overdue, and that they hope the Board will keep it in the CIP.

**Clarence Durham**, 470 Andrews Store Road, Pittsboro, NC, spoke in favor of a new Agriculture Center. He stated that he has been farming all his life. The proposed building is something we have needed for the past twenty years. He is President of the Chatham County Livestock Board, Chairman of the FSA Board, and he helps everywhere he can. He stated that the Board has done an excellent job of showing what they can get and he hopes they can follow through. He stated that they didn't like tax increases, but sometimes they are necessary. If the Board sees fit and can, he stated that he prays the Board will understand and help them as best they can.

**Debbie Tunnell**, 282 Moore Mountain Road, Pittsboro, NC, presented her comments to the Board and provided them in their entirety for the record as follows:

"Chatham County has already begun to exhibit that its citizens want to make it a place where animals can find compassion, adoption and homes. Just to name a few organizations that already serve animals within our County are:

Carolina Tiger Rescue Chatham  
County Animal Control/Shelter  
Chatham Animal Rescue & Education  
Chatham Chapter of the Coalition to Unchain Dogs  
Goathouse Refuge

We have a great tradition to build upon, and if the governing institutions of Chatham County will join in the effort to bring its citizens an Animal Adoption Center, we can take another important step to show compassion to God's creatures.

The Lord speaks to us in Psalm 50:

**"For all forest creatures are mine already, the animals on the mountains are there in thousands. I know every bird in the air, whatever moves in the fields is mine."**

Let us all be found wise stewards of God's creatures, especially those here in our own yard. Please include and donate the land for the Animal Adoption Center as part of the CIP and play a part in the legacy that already has begun.

Thank you."

**George Lucier**, 628 Redbud, Pittsboro, NC, congratulated the Commissioners on purchasing the 92 acres just west of the Central Carolina Community College. He stated that was a great decision and it is a piece of property we will be able to be used in many ways in the future. He stated that he agreed with the comments made by Mr. Mann, Mr. Lutterloh, Mr. Glosson, and Mr. Durham on the Agriculture Center. He stated that agriculture has been a centerpiece of the County for a long time and his hope is it will be for the future as well. Putting that on the CIP is something that he strongly supports. There are other issues we need to be thinking about in terms of our capital plan. The County is growing and he thinks it will continue to grow. The economy is certainly giving signs of lifting and we have lot of opportunity for growth in Chatham County. With that, there will be an increased need for a health department. At some point, like the Agriculture Center, we need to think about what we are going to do for a health center here in Chatham County. It is something we need to consider for the CIP.

He stated that he was on the CCCC Board of Trustees and is a big fan of the college. Having that property adjacent to the CCCC, he also ask the Board to work with the college in developing ways the Community College can serve the citizens of Chatham County in terms of providing job opportunities, etc. He stated that he also supports the comments made by the animal adoption center and this might be a way we can leverage the Agriculture Center and the community college, in terms of vet tech programs and animal adoption programs. He stated that he thinks this is something we should look at in terms of our long term planning.

He stated that as the County grows, we need to get a heads up on the schools. When a school is built, it takes a while. We need to do our best so that we can do to plan for the future growth for the County to provide educational opportunities for the children. The most current needs are of course the high school and the elementary school. One can argue which one come first, but he thinks both are going to be needed as we continue to manipulate and think about the long range CIP.

The Chairman closed the floor for public comments.

**Proposed Jail Financing:** Public Hearing to receive public comments on the proposed \$20,000,000 jail financing

Vicki McConnell, Finance Officer, explained that on October 15, 2012, the Board of Commissioners passed a resolution calling for a public hearing to be held on the proposed \$20,000,000 jail financing at the November 19, 2012 Board of Commissioners' meeting.

As required by the Local Government Commission, a notice was published with respect to such a public hearing.

The Chairman opened the floor for public comments.

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

The Chairman closed the floor for public comments.

## **PLANNING AND ZONING**

### ***Quasi-Judicial Hearing:***

**Westfall Conditional Use Permit Amendment:** Public hearing to receive public comments on a request by Westfall Associates, LLC, and Charles & Janet Meyers on Parcel #20092 and other multiple parcels that make up the Westfall Subdivision (formerly Booth Mountain), located off Lystra Road, and Jack Bennett Road, Williams Township, for a conditional use permit (CUP) amendment to add approximately 14.071 acres and 62 lots and decreasing the overall footprint by at least 23 acres through a redesign of the lots and lot sizes

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

Angela Birchett, Land Use Administrator, explained the specifics of the request.

The Chairman opened the floor for public comments.

Nick Robinson, Attorney, presented his comments for the Board and provided them 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 requested Amendment to the Westfall Conditional Use Permit, requested by Westfall Associates, 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 Westfall in support of its requested amendment. I'm joined tonight by Colen Davidson, the project manager for Westfall under new ownership, as well as by our professional consultants, Joe Faulkner (landscape architect) and Mark Ashness from CE Group, Inc. (engineering and land planning), Rynal Stephenson (traffic engineer), and David Gainey (project manager with Soil and Environmental Consultants). 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 wanted to give a little bit of procedural background. This project was initially approved in January of 2005, I believe Commissioner Cross was on the Board of Commissioners at that time. The project included 180 lots on 294 acres of land zoned for one unit per acre. In late 2006, a preliminary plat for 94 of those lots was approved and in late 2007 a final plat was approved for those lots. At that time it was determined that all of the relevant conditions of the CUP had been met as necessary to allow approval of the final plat for the final plat of the first phase. Shortly thereafter, the reset button was pushed by the local and national housing economy and progress on the subdivision was interrupted. Westfall Associates, LLC acquired the project and property in December of 2011 and has spent the last year getting the project back on track. The entrance area for Section C on Jack Bennett Road is completed and construction of homes there is underway.

## EVIDENCE

Now, with respect to the revisions that are being requested, let me offer the following summary that will be supported by the entire record of evidence in this matter, including all documents filed and presented in the record. In a nutshell, Westfall requests the following modifications:

1. The project will add approximately 14 acres of new property for a total of approximately 308 acres.
2. The project will add 62 lots (to a total of 242 lots on 304 acres) but will decrease the development footprint by 23 acres and will increase the overall open space by 35 acres. We are able to do this because many of the lots are substantially decreased in size, thereby leaving more open and undisturbed area overall.
3. Because of increased lot clustering, we have been able to reduce the overall percentage of impervious surface too, ensuring that the project stays under applicable impervious surface limitations.
4. We have consciously designed the revisions so as to comply with every new regulation and imposed buffer that has been adopted and remains in effect since the prior approval. We will show you later where additional streams and wetlands have been mapped and buffered creating changes to the land plan that dramatically lessen the impact of the development on the landscape.
5. All of Section C will remain as originally platted, without change. Section A is essentially as approved with a few lot changes and with the amenity area being placed back in its original location.
6. Except for one allowed exception, all exterior buffers are at least as deep as originally approved (in some cases deeper). The exception relates to Lots 60-67 where the buffer was adjusted in order to accommodate moving the roadway out of some of the steepest slopes in the project.
7. The Amenity Area has been moved back to the originally approved location in Section A.
8. So, we request that you approve the modification of the overall site plan and the balance of the material included in the application.
9. In addition, we have submitted a redlined version of the CUP, edited to reflect conditions already satisfied and to clarify ambiguities in the prior permit.

The key thing to focus on and be aware of is the context of this request. This development is already approved. All that is really before you is whether the requested amendments, and the evidence in the record through tonight meets the five findings. I submit to you that the evidence thoroughly supports that conclusion and request ultimately that you approve the amendment when it is next before you.

So, leading up to tonight, Westfall has been hard at work meeting with the surrounding community and preparing the land plan such that it will be best positioned for approval based on experience and input. We held a community meeting on October 04, 2012. Notice of that meeting was sent to 39 adjoining. Ten folks attended the meeting which was well-received. Because we will also soon be submitting a First Plat approval request, we also had a community meeting for that process as well to which the 39 adjoining were invited as well as 18 other property owners within 400 feet of the exterior boundary of the project. So 57 different nearby owners were notified of the second meeting. One person attended the



second meeting. Thankfully, we really had anticipated most of the questions in creating the revised site plan so, while there was curiosity about the request, I think it is fair to say we heard of no major obstacles or problems from those who attended.”

The Chatham County School Superintendent was also notified and responded positively as per letter below:

“Dear Mr. Robinson,

The school system and Board of Education are very glad to hear of the plans to move forward with the Westfall Subdivision. As you may be aware, plans are to build a 1,200 student capacity high school on property located to the immediate south of Westfall. The short-term impact of the increase to the development would be insignificant. However, I assume the average cost of a home in the development would be in the range young families could afford. Such families would most likely have, or plan to have, young children.

The size of the Westfall Subdivision would have no impact on the new high school. It will be built large enough to accommodate growth for many years. However, Westfall children are in the North Chatham Elementary School attendance district. North Chatham is currently just under capacity and growing. Students were redistricted from North Chatham this fall to bring the school back into capacity compliance. An additional subdivision the size of Westfall would definitely expedite the need for an additional elementary school in the North Chatham area.

I trust we will have your support when the time comes to talk with commissioners about building a new K-5 school in this area. Much success on the Westfall project. It is good to see housing starts on the rise again.”

Sincerely,

Robert L. Logan, Superintendent  
Chatham County Schools

Mr. Robinson continued: “In addition to the land planning and community meeting, it’s important to know that Westfall engaged professionals to update the traffic study, the economic impact study and also prepared an entire Environmental Impact Assessment that has now been peer reviewed by the County and finalized. We were the first ones to go through that process if I understood correctly and we believe the process went well.

From a procedural standpoint, our intent for the rest of the hearing is to proceed as follows. I will turn the floor over to a series of professionals to walk you through their evidence in support of the fact that the modifications enhance the compliance with and satisfaction of the five required findings.

So, I will begin by introducing, in order Joe Faulkner and Mark Ashness of CE Group, Inc. regarding revisions to the site plan and water and sewer infrastructure.”

Joe Faulkner, of the CE Group, reviewed the map explaining the green lots are lots that are platted. He stated that all the roads have been paved, most of the infrastructure is in, the water and sewer has been turned over to Chatham County, and the improvements that are left have been bonded as required by the County. He stated that they are adding four fourteen acre-plats to bring the project to a total of 308.4 total acres. They are requesting to add an additional 62 lots. In doing that, they felt it was also important to improve the stewardship of the existing features of the site. In doing that, they decreased the overall size of the area to be platted between the proposed and the new and that is a difference of around 23 acres. The existing approved plan is approximately 154 acres and the new will be approximately 130 acres. They have done this by decreasing the average size of the lots. It also creates a more diverse housing alternative for the development which the developer felt was important. They are taking advantage of the existing infrastructure, they have added

additional land, they are decreasing the amount of developed platted land, and all of that increases the open space. The 35 acres of additional open space represents about 47% of the total site area. Within this area, there is also a significant amount of area, approximately 100.8 acres that will remain a natural preserved area. In some instances, that amount may even be greater as they didn't want to overstate what may actually be realized with the project developed. That represents approximately 33% of the site. To further enhance the sensitive nature of this from an environment standpoint, they decreased the amount of impervious area that was mainly done by clustering the homes and reducing the amount of roadway impervious. The roads from the other plan looped. One road previously went across, but it was not a buffer featured previously but it is now. By doing that, it allowed them to create the additional open space and reduce the amount of impervious surface which they felt were important by adding the additional lots. Another important point relative to the modifications is relative to all the new County regulations as far as stormwater and new buffer regulations and erosion control ordinances. A couple of buffers were added weren't previously required. Several ephemeral buffers were added. Several existing buffers have been increased. He reviewed changes on the map where changes have occurred.

Commissioner Kost asked about road improvements and NCDOT removing the curve stating that the MPO representative who said that there were no safety improvements on Jack Bennett Road.

Mr. Faulkner stated that it was a safety alignment. He stated that it had been accelerated due to their driveway permits to connect. He showed the existing driveway on the map and told where it would be shifted out closer to the buffer.

Mr. Robinson referred to a letter from the NCDOT regarding the required modifications.

Jason Sullivan, Chatham County Planning Director, clarified that the difference between the spot safety funds, TIP Project, is the scope. The spot safety funds that are used for this project are specific to that one curve. The discussions held today for the TIP Program involved looking at the entire stretch of road.

Mr. Faulkner explained that relative to the existing perimeter buffers, they were part of the original approval in referring to the map. The road was shifted to get off the steep slope to keep from impacting any of the buffer area along Herndon Creek. He explained the buffers on the map.

Mark Ashness, of the CE Group, spoke specifically to the water and wastewater issues. He stated that all three of the areas currently have water lines installed and accepted by the County. There will be further extensions with the future phases of the project. With regard to wastewater, the utility is owned by Aqua North Carolina who operates several other facilities in Chatham County. They have several phases of the infrastructure that is in, but not certified at this time. He stated that he anticipates final certification of the wastewater plant and the Phase I infrastructure in late winter or early spring.

Commissioner Kost asked if the wastewater treatment plant was going to be large enough to accommodate the high school if that option was selected.

Mr. Ashness replied yes, that they anticipate that there will be extra capacity at the facility that could accommodate a potential school site or some other activity.

Commissioner Kost asked if the infrastructure, as far as the piping, need to be decided now or at a later date.

Mr. Ashness responded that if you were talking specifically about the school site, they could go directly to the wastewater plant.

Rynel Stephenson, with Ramey Kemp & Associates, explained that the original traffic study was done for the old Boothe Mountain site in 2004, a supplemental to the study

in 2007, and have since prepared an updated study for the proposed plan. They took recent updated traffic counts when schools were in session. They updated the trip generation based on the number of lots on the plan, and the traffic study did not identify any operational issues or capacity issues or level service deficiencies. The NCDOT is in the process of straightening the curve. The current schedule is that it would go to construction in 2013. He stated that they have a driveway permit for two of the three access points. There is a letter from NCDOT indicating that they intend to issue the driveway permit for the third access in the curve realignment. Based on the study, the requested permit will not impair the integrity or character of the surrounding or joining districts and will not be detrimental to the health, safety, or welfare of the community with respect to transportation. Adequate access roads to transportation facilities have been or are being provided with the plan.

David Gainey, with S&EC, stated that he had been working at the Boothe Mountain site since 2005 performing field work. He stated that he previously confirmed wetlands on the site and after confirming with the US Army Corps of Engineers, re-verified the wetlands, conducted a Corps meeting to re-verify and re-delineate the wetlands for confirmation, and at that point, they confirmed the delineation. They found another stream area that was not previously found jurisdictional by the Corps. It has been submitted to the Corps of Engineers for jurisdictional determination and they have confirmed those findings. At the same time of conducting the wetland delineation, they did a Chatham County ephemeral buffer delineation for any intermittent or perennial stream buffers that would be involved. They also conducted field assessments for the Environmental Impact Assessment. They conducted the assessment, comparing to the previously submitted site plan to compare what the previous impacts would be compared to the newly proposed site plan. Based on what they found and the new site plan, the increased open space and moving the roads back from the significant natural heritage area at Herndon Creek, the increased ephemeral buffers and the increased wetland buffers based on the new regulations found that the proposed impacts would be lessened by the approval of the new site plan as opposed to the previously approved site plan.

Mr. Robinson submitted evidence of what he stated was a “triple win” with this revision. He stated that this project, as revised, is better for the environment and for those that are concerned about Herndon Creek, it is better for the developer because it is more accurately gauged to the market that we currently have. It is better for the County, also. He stated that Lucy Gallo has performed an update to her economic impact assessment that she did in 2004 and 2005.

Lucy Gallo’s Westfall Fiscal Analysis as follows:

November 14, 2012

Mr. Colen E. Davidson, Jr.  
President  
Impact Design Build, Inc.  
140 Towerview Ct.  
Cary, NC 27513

Subject: Westfall Fiscal Analysis

Dear Mr. Davidson,

In conjunction with the application to amend the original Booth Mountain Conditional Use Permit (CUP), you requested Development Planning & Financing Group (DPFG) prepare a technical memorandum regarding the fiscal analysis prepared by Miley, Gallo & Associates, LLC and dated August 14, 2004.

The Government Finance Officers Association (GFOA)<sup>1</sup> outlines the most common methods for estimating service costs in fiscal impact analysis as: average cost, marginal cost, comparisons to other governments and econometric modeling.

- **Average Cost** assumes the current cost of serving residents and businesses will equal the cost of serving the new development. The average cost method provides a rough estimate of both direct and indirect costs associated with development. However, this method does not account for demographic change, existing excess capacity or potential economies of scale in service delivery. Methods of calculating average cost include per capita costs, service standard costs and proportional valuation costs.
- **Marginal Cost** uses site-specific information to determine services costs for a proposed development. A case study approach is typically necessary to gather detailed information about the existing capacity within public services and infrastructure to accommodate growth from a development project. This method assumes that information about local service levels and capacity is more accurate than standards based on average data.
- **Comparable Governments** incorporate the experience by similar governments with comparable development projects. Studying other governments before and after specific projects can provide useful information in determining additional costs and the increase in costs over a long period of time.
- **Econometric Modeling** uses complex econometric models and is best used for estimating impacts from large projects that create many indirect effects on the existing community such as a utility plant or an entertainment center.

The 2004 Booth Mountain fiscal impact analysis was prepared using a modified per-capita approach. The assumptions and methodologies used in that report were ratified in the peer review report prepared by Tischler & Associates, Inc.

Property Tax Base

Based on your evaluation of local market data, the estimated property tax base for the Westfall project is projected to total \$113 million, or an average of \$467,000 per home. The 2004 Booth Mountain analysis assumed an average value slightly higher at \$488,000 per home. In comparison, the ESRI Market Profile reflects the 2010 median home value in Chatham County as \$150,000.

Projected Tax Base for Westfall

Product Type	# of Lots	Lots Sales Price	Product Sales Price	Assumed Tax Value
Estate lots - +/- 150'	66	\$160,000	\$750,000	\$49,500,000
Neighborhood lots - +/- 100'	47	\$100,000	\$500,000	\$23,500,000
Village lots - 80'	60	\$75,000	\$350,000	\$21,000,000
Village lots - 60'	69	\$60,000	\$275,000	\$18,975,000
	<u>242</u>			\$112,975,000
				242
				<u>\$467,000</u>

Public School Student Assumptions

Development of the public school student generation rate (SGR) assumption was of significant importance to the 2004 fiscal analysis. Based on an extensive county-specific study for Briar Chapel in 2004, an SGR of 0.40 students per housing unit was assumed for capital and operating cost purposes. According to the Chatham County Schools, the April 2012 actual SGRs for Briar Chapely are as follows:

<sup>1</sup> Michael J. Mucha, "An Introduction to Fiscal Impact Analysis for Development Projects," (white paper, Government Finance Officers Association, 2007), www.gfoa.org

- 0.20, for capital cost purposes, calculated by dividing 44 Chatham County public school students by 224 occupied homes.
- 0.26, for operating cost purposes, calculated by dividing 59 Chatham County public school students by 224 occupied homes. The operating cost SGR includes Briar Chapel children who attend Woods Charter School.

The results indicate the SGRs experienced thus far in Briar Chapel are far less than the 2004 estimates, which is unquestionably favorable to Chatham County from a fiscal perspective. In comparison, the 2012 countywide capital cost SGR is 0.29, and the 2012 operating cost SGR is 0.32. In both cases, the SGRs for Briar Chapel are trending much lower than the countywide averages.

Therefore, the 0.40 public school students per household assumed in the Booth Mountain study remain conservative and valid.

### Conclusion

Having prepared the 2004 Booth Mountain analysis and evaluated key components of that analysis by considering the proposed revised plan for Westfall, then Westfall, if completed, should have a net positive impact for Chatham County. The public school student generation rate of 0.40 per household, assumed in the 2004 report, has proven to be conservative thus far, thereby likely understating the net positive fiscal impact of the revised subdivision on Chatham County. Furthermore, the 2004 plan reflected a potential residential tax base increase of \$88 million at buildout, whereas the revised plan reflects a potential residential tax base increase of \$113 million -- an increase of over \$25 million of potential residential tax base.

Please let us know if you have any questions or comments.

Sincerely,



Lucy L. Gallo  
Principal

Mr. Robinson stated the following in his conclusion:

1. Having introduced all of the evidence to date and incorporating the same, I can say with confidence that there is competent, material and substantial evidence in the record to make the five findings as to the modification of the CUP.
2. I need to make a generalized objection to hearsay and incompetent evidence that may surface during the public hearing.
3. I would also like to reserve a short amount of time to respond to any issues that arise during the rest of the public hearing in order to clarify the record and make sure that it is complete.
4. Request that you approve the proposed amendment as submitted.

He incorporated all of the documents that have been referenced that are on-line that he has submitted and that are in the previous public record of this project from 2004 and 2005 going forward. He objected to any evidence tendered by others that may not have standing or to hearsay or incompetent evidence that may surface during the public hearing rather than interrupting anyone during the comments. He also asked for a short period of time to respond to any issues that might arise as a result of comments made by others with respect to this project and to clarify the record and make sure that it is complete. He asked that the Board see their way clear to approve the requested amendments as an improvement for all and a benefit to Chatham County having met the five findings.

The Chairman opened the floor for public comments.

**Leila Webster**, 395 Boothe Hill Road, Chapel Hill, NC, presented her comments to the Board and provided them in their entirety for the record as follows:

“Good evening Commissioners. I own two of the adjoining lots and I am here to tell you that it is not a triple win. I have been on this property since 1981 and I am pretty disheartened with this new development. It goes without saying that none of us who live in this beautiful place, the luxury of living quietly on beautiful land on lots of more than five acres none of us are going to welcome the prospect of 100’s of new houses being built next door. As President of the Boothe Hill Home Owners Association I can tell you that we have consistently worked together to build a strong and beautiful community and we resist its being disrupted.

That being said most of us accept the inevitability the development of this county and of more housing and of housing developments. But we do expect them to do well what they do. We expected them to build communities that are compatible with their surroundings, that are as environmentally neutral as possible, and ones that enhance a larger community of Chatham County. I find Westfall a terrible disappointment when measured against these expectations, and also when measured against other recent developments in our neighborhood. I can’t speak with tech competence on environmental issues, it seems as though they have brought this development up to current standards as they should and I am glad they have but they should. It was hard to miss the fact that when this development started they clear cut every inch of that land. They cut down big and gorgeous trees. I can speak to compatibility with its surrounding but it is a short statement because there is nothing compatible with the existing community about what is being proposed here.

If you go down Jack Bennett Road or Lystra Road you will see nothing like this. We have developments but they are small with decent acreage and they are not jammed into every inch of available land. With Lystra and Jack Bennett Roads, you will see two winding narrow roads that people routinely drive too fast on. If you check you will see Lystra has the highest state rating for danger that a good number of people have died on Lystra for traffic accidents. This development will add 2,550 additional trips per day on these two roads and these two developers have the audacity to say in their paperwork that the additional traffic quote “is not expected to have a significant impact on study area intersections”. As is obvious to all of us this is completely nuts and a misrepresentation of what will unfold here.

Last statement I would make is that Westfall seems to be the worst of both worlds. It is large with negative impact and it gives nothing back beyond its tax revenues which will likely be offset by its use of services. I would urge the commissioners to ask these designers to go back to the drawing board and make this development more moderate. It is just way to many houses for where it is.”

**Jennie DeLoach**, Boothe Hill Road, Chapel Hill, NC, presented her comments to the Board and provided them in their entirety for the record as follows:

“My name is Jennie DeLoach. I have lived in Boothe Hill community off Lystra road for over 30 years. You might say our community splits Boothe Hill with Westfall.

Boothe Hill is a 150 acre community made up of 1 house per 5 acres. Going towards 15/501 and adjacent to Boothe Hill is Jones Branch community with one house per 10 acres. Next to that is a 140 acre development called Lystra Estates which has 1 house per 10 acres.

The plan for Westfall calls for 242 lots in 308 acres. The average lot size is .53 acres. Westfall will be adding 2,550 vehicle trips a day to Jack Bennett and Lystra roads. The additional 62 lots will add 650 vehicle trips a day to those two roads.

According to NC-DOT accident analysis system crash data, Jack Bennett and Lystra Roads are two of the most dangerous roads in Chatham County. Jack Bennett averaged 17 deaths a year with 10 of those clustered at the entrance to Westfall. Lystra averages 9 deaths a year

I am glad DOT has decided to do something about Jack Bennett, and I hope the changes cut down on the deaths, however I want to know what will be done to Lystra. I have been rear-ended turning onto Lystra road. Two kids died in a traffic accident right at the entrance to Boothe Hill. My neighbor Miles Stone who lived in Jones Branch died on Lystra road while returning from a trip to the grocery for milk. The additional 650 vehicle trips a day will increase the chance of such accidents. I ask that you keep the number of houses to the original 180.

I am concerned that the previous house count for Booth Mountain did not fit into the feel of the area. Adding 62 new homes is over the top. The conditional use permit process has 5 findings for a permit to be granted. I would encourage you to turn it down due to it being detrimental to the health, safety or welfare of the community.”

**Peter Theye**, 1065 Boothe Hill Road, Chapel Hill, NC, presented his comments to the Board and provided them in their entirety for the record as follows:

“Good Evening, my name is Peter Theye, and I reside at 1065 Boothe Hill Road.

Westfall has been a bad neighbor since its inception. It’s original name, Booth Mountain, did a pretty good job describing the site. Mountainous, steep slopes. Pretty expensive to make into suburbia. The original LLC who went belly up, Macgregor Development, backed by a local legal firm and a local engineering firm, developed this site with little attention to the environmental or county infrastructure concerns raised by citizens of this county during the approval process in 2006.

This development ignored DWQ’s construction standards for stream crossing and incurred numerous Notices of Violations from DNER. I will always remember Booth Mountain’s legal representative’s attempts to passive citizens concerns by stating that McGregor Development will follow all the regulations set by the state of North Carolina. Which was, of course, a falsehood. Westfall also violate our local ordinances and received NOV’s from the county. I do have an extensive email and pictorial record of this site and can document many of the violations.

I am not sure about you Brian or Pam, but I have a feeling if Walter had something like this come in next door and could see as I did, the rivers of mud flowing into Herndon Creek for days on end, he would be as angry and as frustrated as me.

We owe this development nothing. Who cares that it is a new and different LLC! Chatham should use all means available to reduce the negative economic and environmental impacts from the continued development of Westfall. Since they want to amend the CUP, how about some new conditions from the county?

The new developer needs to be held to a higher standard than the old. If and when Westfall LLC goes belly up, a sufficient bond needs to be in place to stabilize the disturbed areas. A responsible phasing schedule must be developed with input from our county Soil and Erosion Control department.

This development needs to step up and pay its fair share for the county services, the new Westfall citizens will demand before they even pay their first property tax bill.

Thank you.”

The Chairman administered the oath to another citizen in attendance who wished to make public comments.

**George Lucier**, 628 Redbud, Pittsboro, NC, stated that he is disappointed that no one from the school board is here for two reasons: 1) He stated that he heard it discussed earlier tonight that Westfall agrees to handle the wastewater for the school, but there is an amount to that and that needs to be part of the negotiations. The last plan that he saw for the school was 800 students, and according to state law, would require 12,000 gallons a day. However, the

school is also meant to be enlarged up to 1,200 students which means up to 18,000 gallons a day to be compliant with state law. This needs to be part of the negotiations. There were three or four possibilities for the wastewater. One was sending it to Westfall for that amount, another was sending it to Governor's Club, and the third was to do a constructive wetland. Obviously, he stated, it would be important to nail this down because the most cost efficient plan for the County would be to send it to the Westfall Wastewater Treatment Plant provided they can handle it and agree to do that. 2) The school site for the high school is somewhat site limited because of the acreage, the wetlands, and its location close to Jordan Lake. Perhaps the developer might consider donating some of the property, a few acres, to alleviate some of the site limitations of the current high school in the northeast part of the County. He asked that those two considerations be made as part of the discussions.

Mr. Robinson stated that he had been involved with this project for a long time; he knows and respects the passion that the folks at Boothe Hill Subdivision have with regard to their neighborhood. He stated that he believes with all sincerity that the developers of this proposed revised project have gone to great lengths to make this a better project for the environment. He asked if they had gone to the lengths that would be needed to make some of the people who have spoken tonight at Boothe Hill accept it, and answered "no". He stated that they are not required to do that but he do thinks they have made a genuine good faith effort to accommodate a lot of the concerns that were expressed.

He stated that with regard to the compatibility argument that was raised, he asked the Board to remember the rear entrance to Governor's Club is approximately one half mile away which is a community that has 1,200 lots in it; further down Big Woods Road is the entrance to the Preserve at Jordan Lake with 514 lots. He stated that this is clearly compatible with the surrounding area in jurisdictions and the accommodations that have been made to the site plan make it compatible with the surrounding properties. He stated that the evidence presented with respect to traffic, the environment, economics, and engineering is from professionals with credentials and rendering of substantial, competent material in a way the other evidence is not.

Commissioner Kost asked Mr. Robinson to compare Governor's Club and the Preserve with regard to density.

Mr. Robinson stated that he did not know the exactly density of the subdivisions. He stated that theirs would be slightly more than one unit per acre with that zoning. This project as revised would have one unit per every 1.25 acres of gross acreage.

Karl Ernst, Planning Board Member, asked who within the group would be able to attend the Planning Board meeting to answer questions.

The Chairman closed the floor for public comments.

### **BREAK**

The Chairman called for a short break.

### **PLANNING AND ZONING**

#### ***Legislative Hearing:***

**Ringeisen/Ward's Hollow Rezoning Request:** Public hearing to receive public comments on a request by Kim and Annette Ringeisen, to rezone property from R-1 Residential to CD-RB Conditional District Regional Business, on Parcel #63764, located at 3215 Mt. Gilead Church Road, approximately 7.14 acres, Baldwin Township, for a special events venue to host weddings, receptions, anniversaries, reunions, company socials, photography, and other similar events

Angela Birchett, Land Use Administrator, explained the specifics of the request.



The Chairman opened the floor for public comments.

**Wade Barber**, attorney representing the applicant, introduced Annette and Kim Ringeisen. He stated that the Ringeisens wanted to bring small business into the community and were encouraged as entrepreneurs to start their small businesses on a part-time basis. A wedding was held there a couple of weeks ago and three bed and breakfasts in Pittsboro were used as a result; a dinner party was held at the Oak Leaf in Pittsboro; a luncheon was held at a smaller restaurant; guests shopped at the antique stores; and some have returned to shop in Pittsboro. He stated that this is a family who wishes to start a small business.

He stated that the Ringeisens moved to the Triangle Area in 1999. Mr. Ringeisen is an eleven-year Army combat veteran. He then went into IT at Cisco where he is senior director of systems engineering for the data center for Cloud International based in RTP. He has been involved in the community since he has been here. He was a member of the rescue squad and on the Governor's Task Force for Veteran's Affairs. He and his wife Annette have two children who are now soldiers at Fort Bragg. He looks to be a leader in his community. He was a graduate of the Leadership North Carolina program. They bought Dr. Ward's seven-acre home place on February 14, 2011. They are now applying for zoning permission to continue to live there, to host private, outdoor events which will be unique and intimate such as weddings, anniversaries, family reunions, birthday parties, etc. He has been working for a year to meet all the conditions and concerns of the neighbors and County.

**Kim Ringeisen** stated he is excited to take part in the democratic process. He stated that they met with the Ward Family after they moved into the house they purchased in January 2011, as they had decided to rename the property in honor of Dr. E. H. Ward as Ward's Hollow. He stated that when he and his wife were looking for another place to move, they were looking to sustain themselves as small business owners in Chatham County, taking the money they had saved over the years and applying it in incremental steps to get them into a business. They looked at opportunities within the County. Since they moved into the house, they have spent approximately \$90,000 in rehabilitative and improvements to the property protecting it from any decay due to water damage, etc. They have included making sure that anything historic in the house has been preserved through coordination with the North Carolina Preservation Society. They have also initiated major historical landscaping efforts around the 150 year old oak trees where certified arborists have been brought in to review the trees to conduct prunings to make sure that the trees remain healthy and to establish cables where necessary so they would not be damaged as a result of wind or ice storms. They have also removed several dangerous trees with coordination through the preservation society. From the rezoning perspective, it was an eye-opener for them as citizens. He had to find out how to get to the level that the County requires for planning, etc. It has taken longer than anticipated. They were able to address concerns from the Appearance Commission and all of their recommendations have already been implemented. They have had septic screenings for the area to make sure, if they are approved, that they have plans in place for permanent restroom facilities, if needed. They had a review by the fire department who came and looked at travelways and entries to conducted some tree trimmings to make sure there was enough clearance on the main road.

He showed photographs of the property, provided descriptions, and offered explanations where applicable.

Mr. Barber explained the orientation of the Mt. Gilead Church Road with other roads, vegetation and trees, and property lines.

Commissioner Stewart asked how many cars could be parked in the parking lot.

Mr. Ringeisen said approximately 22-23 cars in that area stating that area was typically reserved for the bridal party and other parking was redirected to the Mt. Gilead Church parking lot.

Commissioner Kost asked for an explanation of Lot #18.

Mr. Ringeisen provided a directive for the lot lines. He stated that he did not own Lot #18 as it was done in conjunction with Windjam and he was not planning to use it again.

Mr. Ringeisen stated that his question was if the line could be twisted to make an adjustment on the lot line to afford more of a buffer at the top side which is a septic field. He stated that he moved away from that due to the complexity.

The Chairman opened the floor for public comments.

**Kevin Flynn**, 258 Canopy, Pittsboro, NC, presented his comments to the Board and provided them in their entirety for the record as follows:

“My name is Kevin Flynn. I am a homeowner in Monterrane, Phase 1, one of the many neighborhoods up and down the Mt. Gilead corridor. And I am actually talking about the application pending and there are some things I heard tonight for the first time tonight about bluegrass music and if that gets hardcoded in here then some of my comments may be less valid. But I have to work with what I have in front of me. First, my day job, I am a patent attorney, I work with entrepreneurs. Part of that process, is explain the rule, regulations, the laws, the rights of others. Sometimes we can adjust what they are doing. Sometimes they have clear sailing. Sometimes they need to come up with a clear plan of how they are going to come up with something new and different because their original plan is not going to work. That is just the way entrepreneurship works. You have to deal with the rules.

First, my biggest concern is just generally noise. Business related noise will be active at a wedding place at nights and on the weekends. I love weddings and wedding receptions. But weddings often have live music and DJ’s that crank the music up to get the twenty something’s out on the dance floor cause that is a sign of a successful wedding. The music can go late into the night. I have been at many weddings when the music has gone until midnight and sometimes later. Then the weddings wine down. Then people say goodbye to people who have been flown into the wedding, sometimes loud goodbyes because they have been around loud music or have had more to drink than they normally would. Then the band has to break down. Then the catering people have to wrap up and clear their stuff out.

A wedding reception is often a very noisy thing. Many people like me would not have considered moving into the Mt. Gilead corridor except that it was already safely zoned residential. We believed we were safe from businesses coming to change the corridor. Peace and quiet is central to enjoying an evening grilling outside, to lying with your grandkids, or to going to bed Saturday night so that you could get up and go to Sunday services or do whatever else you had planned on Sunday morning. We expect to be able to open the cool night air, and we don’t expect that to let in the noise of a nearby business being operated. The Mt. Gilead corridor is zoned residential and nothing should be granted that adversely impacts the ability of residents to get a good night’s sleep. There is noise ordinances’ in this county, however we are all aware of people calling in and trying to get a noise ordinance enforced and it just doesn’t worked. The thinly stretched sheriff’s department has no real interest of rolling a car out to listen to the noise and measure all of that. The poor people near the Wooten facility have tried for quite some time and have not gotten much result. Noise ordinances as a safety net to protect neighbors from noise of a business should not be the primary plan.

Next, a less important point but one I think needs to be addressed, I disagree with the plan of having one parking place for four seats in their main function hall, whatever that number ends up being. The four to one ratio was used because some churches use that. It has not been my experience at all that at a wedding place that people come as foursomes. It is frequently a couple sometimes a single person. I would be shocked if the actual average of people driving to a wedding function is different than 2.0. It certainly is not 4.0. Why do I care? I think that the natural consequences of not having enough parking is that people that come late or want to be able to leave quickly without having to use a shuttle bus are going to park on The Hamptons because it is pretty close to there. Unfortunately those roads are set up to be residential and they are pretty narrow and winding. If you parallel parked on that

road you can't have two sets of people parallel parking without severely constricting the roads. That leads to traffic problems and I don't think you could get an elongated fire truck through that road safely unless people were parking on people's grass. If you have cars parked out in a residential neighborhood and an event ends at midnight, you have to worry about a noise problem. Car doors slamming and people talking at that time of night will invite dogs to bark in the neighborhood.

We have heard all sort of great things about the property and the people applying. Those two things alone don't change the fact that this is a bad idea. There is nothing in the application that guarantees that these two people will be running the place forever. Any sort of grant or change of zoning is going to run with the land and we have no idea if any other people coming in will have the same beneficial thoughts and so we have to assume the worst case scenario. So in closing paradoxically denial of this application is a way to yes. Say yes to those who have worked for years to develop The Hamptons in a way that is consistent that is residential nature with the Mt. Gilead corridor. Say yes to the homeowners that already exist within earshot of this proposed wedding venue. And say yes to the many lot owners that are hoping to build a house here and are hoping to get some peace and quiet. Finally say yes to all the homeowners up and down the Mt. Gilead corridor that came here that wanted residential and thought that meant something and they want to know that Chatham County cares about the existing stake holders. I am asking you to say yes. Thank You."

**William Fischer**, 591 Red Gate Road, Pittsboro, NC, thanked the Commissioners for their time and for letting him address them. He also thanked Mr. Ringeisen and his children for their service to our country. He stated he moved to Chatham County from Orange County 36 years ago. He built a house and for a long time thought you had to be real careful and watch your step or you would fall off the edge of the world. He thought he lived where nobody would find him but they have. There are a lot more people there now with a lot more commuters using the road and not all of it local traffic. He watched the zoning being done because he moved before the zoning. He watched people agonize over where the businesses were going to be. A lot of well meaning, bright, hard working people worked on this for 30 years. He appreciates their work and he believes in people being able to do what they want with their land but that is a right that has two sides. That is just like you don't have the right to yell fire in a crowded theater just because you have free speech. You just can't do that.

He stated he feels they are now being assaulted with applications for new business such as the Wooten situation. He said all he knows to do is to pay his taxes and try not to be a burden on the county. Hopefully the Commissioners will protect him after being told to go ahead and invest your lifesavings and everything you worked for in a nice place to live. You tell them we have zoned it residential and then let someone come in next door and foul it up is kind of a betrayal. He said he didn't know how to do anything except to accept the County's word that this is residential and that this is business. It is a betrayal when all of the sudden you have noise and pollution that you didn't really bargain for. He thanked the Commissioners for hearing him and said he believed in using his property the way he wants to. The way he wants to use his is to come home to heal his soul, not to come home to hear blue grass music, dump trucks, etc.

**David Richardson**, 791 Red Gate Road, Pittsboro, NC, presented his comments to the Board and provided them in their entirety for the record as follows:

"I stand here to oppose this proposal for several reasons. I had prepared some remarks but these are going to change based on a little bit of what I've heard. I would also like to say I thank you for your service for our country. I am going to start with what I've prepared and then I will adapt and try to be equally concise. I think this will not only be a bad idea because it will be in conflict with long established surrounding residential rezoning but it would also decimate the adjacent property values. It would be a nuisance to its neighbors. It would result in dozen of drunk and tipsy drivers weaving down narrow county roads. It would endanger other motorists especially bicyclist and pedestrians. This would be probably the first domino toward dismantling the residential nature of this corridor.

This would also meet the very definition of spot zoning. This occurs when a relatively small tract of land is zoned differently from the surrounding area. For this not to be considered illegally spot zoning four factors must be considered: The size of the tract relative to the surrounding area, the compatibility with the existing comprehensive zoning plan, who benefits and who it harms, and a consideration of the proposed use to the current use of adjacent properties. This is why the zoning application form specifically asks four questions to be answered by the applicant. Those questions were designed to give the applicant the opportunity to explain what error exists in the existing zoning ordinance which would justify the change to some other zoning use. All that we have heard about this project are lots of nice descriptions and we have seen some nice pictures. We haven't heard any explanation as to why this is justifiable and what error exists in the zoning ordinance which would require this to be changed. I think the application demonstrates just the opposite. It would be for the benefit of out of town and out of county guests. It would financially benefit the applicant at the expense of adjacent land owners. It duplicates another venue within walking distance. This would be contrary to existing residential use.

There is a saying that goes something like this, for all those who failed to learn the mistakes of history they are doomed to repeat those mistakes. Now we are seeing a similar thing that happened 20 years ago where a 1988 a spot zoning land work case, Alderman vs. Chatham County, had some very similar points. Ultimately it is the idea where one person says they bought the property so they can do anything they want to do with it. The truth is as long as we live in a civilized society we have some responsibility to our neighbors and the people who live around us. Having a wedding venue, almost no one would have an objection to that, but it has to be taken into consideration with what and how it is going to relate to and affect its immediate neighbors. For this reason I call upon the Commissioners to protect our land rights and uphold our zoning laws unless there is a very good reason, which I have not heard, that benefits the community to change them. This area is zoned residential, please leave it that way."

**Dan Robinson**, 2599 Mt. Gilead Church Road, Pittsboro, NC, presented his comments to the Board and provided them in their entirety for the record as follows:

"I am pastor of Mt. Gilead Baptist Church. I share the concern with all the folks that live in the area which is why when I met with the Ringeisens about using our church parking lot, we had at length discussions about what they would be doing it, how they would be doing it and why they needed parking space. I would share that I always found them to be very professional and very open in sharing their intent in wanting to be part of the community. We have agreed to allow them use our church parking lot as we do for many community groups that want to come in and use our facility and our parking lot.

One of the events that Mr. Ringeisen shared about, they did use our parking facility so I thought I am going to drive by to see what this even is like. So I did on that evening and had I not already known that an event had been going on I would not have been able to tell there was an event. It was very quiet and peaceful. There were no issues using our parking lot that we became aware of. That ultimately led us to extend them the privilege of using the parking facility. I am a bicyclist myself and I ride up and down Mt. Gilead Church Road. It is very busy, and I do not ride at night. I share the concern of all the folks in the area, but I would just say from my own experience that I have found that the events so far they have had have been very quiet and very well controlled and we have had no issues with them from using our parking facility."

**Sam Petrides**, 6 Stirrup Lane, Pittsboro, NC, presented his comments to the Board and provided them in their entirety for the record as follows:

"I own Carolina Preferred Realty, and I represent The Hamptons. I am challenged to sell a lot, to get the house built and to bring the customer to us. I have sold over \$10 million in Chatham County, Chapel Ridge, Legacy, all defunct communities. This community is standing. This community right now has a problem.

Today at 11:00 AM, I had a client from Illinois. The client wants to buy our 5 acre piece, and wants to build a 5,000 sq. foot house. The customer's first question to me was "What are those tents?" "What is this zoning?" Obviously the sign is posted. Of course being a realtor and being obligated, I have full disclosure of what is going on. Naturally the customer said, "We love this place. Let us know when the rezoning is completed and which way it is going to go. If it goes in their favor we are not buying in here." I have another client who is at their lawyer's office right now and their agent is writing language on a contingency on how to purchase one of the lots, lot 20, which we own. It will be contingent on this; it will not close until this approval. If it gets denied, we get it. Of course I have to convince the developer are we going to accept this contingency or not, do we wait, I don't know.

I was thrilled to have this opportunity to have a \$600,000-\$700,000 and up community to get started again in February. This is what I do. I take on developments. I am good at my job. But having this going through right now, I am struggling. The tents have been up for two weeks. During the parade of homes, we put over 550 people through The Hamptons. We were the gold winner, with a 1.2 million house, and now we are struggling. That is all I can say."

**Brad Hart**, 111 MacKenan Drive, Cary, NC, presented his comments to the Board and provided them in their entirety for the record as follows:

"I am with Withers and Ravenel, Inc. of Cary, North Carolina. I am the design engineer of record for The Hamptons. I am here with Rex Vick of Windjam Development and with Sam Petrides. There has already been a lot said, and I don't want to belabor the point. The only things I would like to add is that I have been involved with The Hamptons from inception, since before it was a sketch on a napkin until today. I presented the subdivision approval to this body back in 2006 and have worked on every aspect of The Hamptons through design and construction. The only point I wanted to make is the only desire for The Hamptons has always been to be a beautiful, luxury, estate residential subdivision and has never been intended to have a commercial component."

**Harry Krohn**, Old Waverly Way, Cary, NC, presented his comments to the Board and provided them in their entirety for the record as follows:

"I am with Sage Built Builders. The Hamptons is basically my bread and butter. It is where I make my living. Like Sam said, we are not going to move that property with those tents up. You will see some pictures that we have too where you can see them from every lot that we have in the neighborhood. I would really like to see it stay with what is in place. We worked really hard to build that neighborhood, and it is a residential neighborhood. That is what it is. I don't really know what else to say. I was here earlier and heard all the trouble with Henry's Ridge with water and that is something that happened a long time ago and you guys are dealing with that. We don't want you to inflict something like that on us. That was an accident that happened years ago, but if you change this zoning, it is going to kill our neighborhood, plain and simple."

**Gary Shipman**, attorney, 575 Military Cutoff Road, Wilmington, NC, stated that he is an attorney representing the Hampton Owners Association and Sage Built. He stated that when you are looking at any zoning or rezoning application, one of the things that you don't want to do is to do something where the bad outweighs the good with the respect to the welfare of the public. It is the welfare of the public versus the welfare of the private concerns being the guiding the star that must guide you in your decision making. Zoning, as you know, is undertaken pursuant to the County's general police powers which are delegated to you by the State. Those powers exist only if your zoning decisions, in this case your rezoning decisions, are done and performed in a comprehensive matter. What you are being asked to do with this particular application is to impose a commercial use, an intense commercial use, into an already established residential area, where the applicant has not demonstrated to you any corresponding public benefit. It is when zoning is exercised in this fashion, that the State that has delegated the County this power, finds that power to not be consistent with the delegation given to you by the legislature. As you know, anyone with

standing can contest a zoning or a rezoning application with this body, the applicant, and those opposing the application having the benefit of knowing what the appellate courts of this State have to say about zoning and rezoning issues. Meaning, as far as it pertains to the law, which includes not only laws of the courts, the appellate courts of this State, but your own ordinances, there is no mystery about what the law provides. If the proposed use is consistent with the Land Use Plan, and if the proposed use is otherwise consistent with the ordinance, it should be allowed. Alternatively, if the proposed use is not consistent with the Land Use Plan or the ordinance, it should not be allowed. What the applicant envisions is a dramatic change to a very comprehensive study that this body and others have undertaken for many years and that is what are the proper land use classifications and zoning district classifications for this area. If in conjunction with this applicant's application, it prompts this Board to reconsider the Land Use Plan, which would involve a change in the zoning ordinances, then so be it because indeed that is comprehensive zoning. But to undertake this kind of dramatic change in connection with this application, we believe not only to be not comprehensive but we also believe to constitute spot zoning.

Mr. Shipman continued by reviewing and presenting a PowerPoint presentation as follows:

**Application for Conditional Zoning  
District on Lot 17, The Hamptons  
– “Ward’s Hollow –**



Opposing: Windjam Development Group, LLC  
Developer of “The Hamptons”

## LAND USE DEVELOPMENT PLAN



### **The Vision for Chatham County**

*Chatham County will be a place that cooperatively controls its own destiny to assure the state of well-being desired by all of our people, while proudly preserving diverse cultural heritages and the County's rural character.*

-- Vision prepared by the Strategic Plan Development Committee and signed by the five governing boards in the County.

## LAND USE DEVELOPMENT PLAN



### **Land Conservation & Development Policies**

Two fundamental policies are considered in every issue addressed by the plan:

1. *Land development & conservation will reflect balanced growth.*

Balanced growth means that development is welcomed, but in ways that ensure that:

- benefits and burdens of growth are shared,
- growth consists of a mix of different types of development, and
- development is guided to suitable locations and is designed appropriately.

2. *Chatham County's approach to land development & conservation will be open, pro-active and cooperative.*

An open, pro-active and cooperative approach means:

- making citizens aware of land use changes,
- preparing ahead for development issues instead of reacting to specific development proposals or growth-shaping influences, and
- working closely with other jurisdictions.

## CHATHAM COUNTY STRATEGIC PLAN OUTCOMES AND GOALS

### I. BALANCED GROWTH

5. More intensive land uses, e.g. commercial, high density residential, and industrial, concentrated in or near Chatham's existing towns.

5. Such concentration increase efficiency with which essential services, e.g. water, fire protection, can be provided, and help to preserve the "great outdoors" as a primary county asset.

## LAND USE DEVELOPMENT PLAN



13. Discourage commercial and industrial development in other settings, especially as strip commercial development and in sensitive resource areas.



## ZONING DISTRICTS



**R1 Residential District**

This district is primarily for low to moderate density residential development within the residential-agricultural areas of the jurisdiction.

**RB Regional Business District**

This district is similar to the old General Business District in that a wider array of uses is allowed and there are not limitations on single-occupant, single-use structure sizes or outdoor storage and display of merchandise.

## ZONING TABLE OF PERMITTED USES



Zoning District	R5	R2	R1	O&IB-1	NB	CB	RB	IL	IH	
Circuses, carnivals, exhibition shows, sideshows, races, trade shows, flea markets, banquets, conventions, religious events, arts and crafts shows, stage shows, athletic events and other similar events, including temporary living quarters such as mobile homes and recreational vehicles provided that the stay of such temporary living quarters shall be limited to a period of not more than five days longer than the duration of the event and no more than 30 total days in any 12 month period for any one separate event								CU	P	P

## SECTION 5 – Conditional Zoning Districts



### Section 5.1 – Purpose

Conditional Zoning districts are zoning district in which the development and use of the property is subject to predetermined ordinance standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and apply it to particular property.

Some land uses are of such a nature or scale that they have significant impacts on both the immediate surrounding area and on the entire community, which cannot be predetermined and controlled by general district standards. The review process established in this Ordinance provides for accommodation of such uses by a reclassification of property into a conditional zoning district, subject to specific conditions, ***which ensure compatibility of the use with neighboring properties.*** A conditional zoning district is not intended for securing early zoning for a proposal, except when that proposal ***is consistent with an approved land use plan or the proposal can demonstrate that public infrastructure needed to serve the development will be made available within a reasonable time period.***

## APPLICATION DOESN'T MEET PURPOSE STATED IN SECTION 5.1



- No conditions can “ensure compatibility” of intense commercial use for private gain in well established residential area
- Proposed use not “consistent with approved land use plan” for Mt. Gilead Rd. Corridor
- No infrastructure improvements related to traffic, sanitation to be made available “within a reasonable time period”

## REQUIREMENTS IMPOSED ON APPLICANT



- Section 5.3 A – Application: [A]ll applications shall also contain the following information:
  1. The alleged error in this Ordinance, if any, which would be remedied by the proposed amendment with a detailed explanation of such error in the Ordinance and detailed reasons how the proposed amendment will correct the same.
  2. The changed or changing conditions, if any, of the area or in the County generally, which make the proposed amendment *reasonably necessary to the promotion of the **public** health, safety and general welfare*.
  3. The manner in which the proposed amendment will carry out the intent and purpose of any adopted plans or part thereof.

## REQUIREMENTS IMPOSED ON APPLICANT



### **5.3. General Requirements**

Property may be rezoned to a conditional zoning district only in response to and consistent with an application submitted in compliance with Section 5.

## APPLICANT HAS NOT SATISFIED REQUIREMENTS OF ORDINANCE



- Does not allege any error in R1 Ordinance, or reasons why the proposed use would fix any such error
- Makes no showing regarding “changed or changing conditions” of well established residential corridor
- Makes no showing regarding how proposed use “reasonably necessary to the promotion of the public health, safety and general welfare.”
- Make no showing how proposed use is consistent with “intent and purpose” of County’s land use plans
- Proposed use = strictly private benefit: inconsistent with Ordinance

## PERMITTED USES WITHIN CONDITIONAL ZONING DISTRICTS



- Section 5.4 – Uses Within District.  
Within a conditional zoning district, only those uses listed (or determined to be equivalent uses) as permitted uses or conditional uses in the corresponding zoning district shall be permitted, and no use shall be permitted except as a conditional use subject to approval of a conditional zoning district rezoning authorized by the Board of Commissioners as provided herein.

Proposed use – not listed as permitted or conditional use in R1, as property is present zoned

Rezoning to RB, as conditional use or otherwise, inconsistent with approved land use plan

## REVIEW PROCEDURE



- Section 5.7 E: Once the Public Hearing is closed by the Board of Commissioners, the Planning Board and Board of Commissioners shall review the application pursuant to the procedure outlined in Sections 19.6-19.11.

## SECTION 19 - AMENDMENT TO ZONING ORDINANCE



- Section 19.1 – Statement of Intent.  
For the purpose of establishing and maintaining sound, stable and desirable development within Chatham County this Ordinance shall not be amended except to correct an error in the Ordinance or, because of changed or changing conditions in a particular area or in the County generally....These amendments shall be *reasonably necessary to promote the **public** health, safety and general welfare and to achieve the purposes of the adopted Land Use Plan.*

## SECTION 19- AMENDMENT TO ZONING ORDINANCE



- Section 19.6 – Public Hearing and Notice Thereof
- Section 19.7 – Planning Department Prepares Final Analysis and Recommendation
- Section 19.8 – Planning Board Action on the Amendment Application “...The Planning Board shall provide a written recommendation to the Board of Commissioners that addresses consistency with the adopted comprehensive plan and other matters as deemed appropriate....”
- Section 19.9 – Board of Commissioners Receives Recommendation of Planning Board “...Prior to adopting or rejecting any zoning amendment, the Board of Commissioners shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan, is reasonable, and in the *public* interest.”

## COUNTY DERIVES ZONING POWER FROM THE STATE



- The power to zone real property is vested in the General Assembly by the Constitution of NC, who has delegated that authority to local government. Chrismon v. Guilford Co., 322 N.C. 611 (1988)
- In exercising zoning powers, County may not act unreasonably, arbitrarily or capriciously
- Conditional use zoning authorized in North Carolina.
- “We have said, however, that in order to be legal and proper, conditional use zoning, like any type of zoning, must be reasonable, neither arbitrary nor unduly discriminatory, and in the public interest.” Chrismon
- Conditional use zoning cannot be “spot zoning” and be legal

## SPOT ZONING



- “A zoning ordinance, or amendment, which singles out and reclassifies a relatively small tract owned by a single person and surrounded by a much larger area uniformly zoned, so as to impose upon the small tract greater restrictions than those imposed the larger area, *or so as to relieve the small tract from restrictions to which the rest of the area is subjected*, is called ‘spot zoning.’
- Spot zoning beyond the authority of the County “in the absence of a clear showing of a reasonable basis therefor.” Chrismon

## FACTOR SUFFICIENT TO SHOW REASONABLE BASIS



- Size of tract in question
- The compatibility of the disputed zoning action with an existing comprehensive zoning plan
- The benefits and detriments resulting from the zoning action for the owner of the newly zoned property, his neighbors and the surrounding neighbors
- The relationship between the uses envisioned under the new zoning and the uses currently present in adjacent tracts
- “The true vice of illegal spot zoning is in its inevitable effect of granting a discriminatory benefit to one landowner and a corresponding detriment to the neighbors or the community without adequate public advantage or justification.”  
Chrismon

## PROPOSED USE WOULD CONSTITUTE ILLEGAL SPOT ZONING



- Tract, as presently zoned, suitable for all uses in R1. No showing that it is not
- Proposed use inconsistent with land use plan and character of surrounding community
- “Most likely to be found invalid is an amendment which reclassifies land in a manner inconsistent with the surrounding neighborhood.” Chrismon
- No benefits to surrounding property
- Detriments to surrounding property
- Benefit granted to applicant “without public advantage or benefit”
- “[T]he evil to be avoided is an attempt ‘to wrench a single small lot from its environment and give it a new rating *which disturbs the tenor of the neighborhood.*’”
- “[R]ezoning of a parcel in an old and well established residential district to a commercial or industrial district would *clearly be objectionable.*” Chrismon

Chairman Bock stated that, in the beginning, someone mentioned that this piece of property was originally in The Hamptons and someone made a conscious effort to remove it from The Hamptons. He asked if anyone knew why that decision had been made.

Mr. Shipman stated that someone made a conscious effort to dedicate Lot #17 to historical preservation pursuant to a preservation agreement that was entered into with various entities. He stated that the purpose of that was to ensure that the historical integrity of the site was maintained. The purpose was not to permit a commercial use in an already existing residential zone.

Chairman Bock asked what the current zoning was for Fearington Village.

Jason Sullivan stated that Fearington Village zoning was R1 zoning but also had a conditional use permit that was issued in the mid 1970's.

**Jennifer Scott**, attorney, 7324 Silk Hope Gum Springs Road, Siler City, NC, stated that Rex Vick owned Windjam 23 and was a principal in Sage Built. The Hamptons is 89 lots approved in three phases. All three phases are platted and all those lots are being taxed. This is a high end development. Mr. Vick seeks to add value to this County's tax base and seeks to add high-end homeowners to the tax base. This developer has made a huge investment to this County's infrastructure. Back when this project was being approved, Mr. Vick paid to run an updated twelve inch water line nearly two miles to Bynum ridge which cost approximately \$800,000. It was not required, and he has not sought reimbursement. He has constructed a turn lane although it was not required by the DOT. His effort was to address every safety concern for the potential occupants of The Hamptons. He has paid mitigation fees of \$50,000 to the DWQ for the activity in his neighborhood. He has no bonds outstanding. He has prepaid \$328,000 in water availability fees to the County. He has pulled and prepaid all 88 septic permits. His erosion control permits were met, his warranty permits for all interior infrastructures are all cured with no issues outstanding. He has also held pricing and product in this neighborhood through this economic downturn. Even now, he is handling the building inside as Sage Built to ensure The Hamptons is developed as proposed and that he fulfills all the obligations that he made to Chatham County when he was coming through the approval process before some of you and some not. He has spent to date near twelve million dollars in land and infrastructure improvements in The Hamptons. He had no

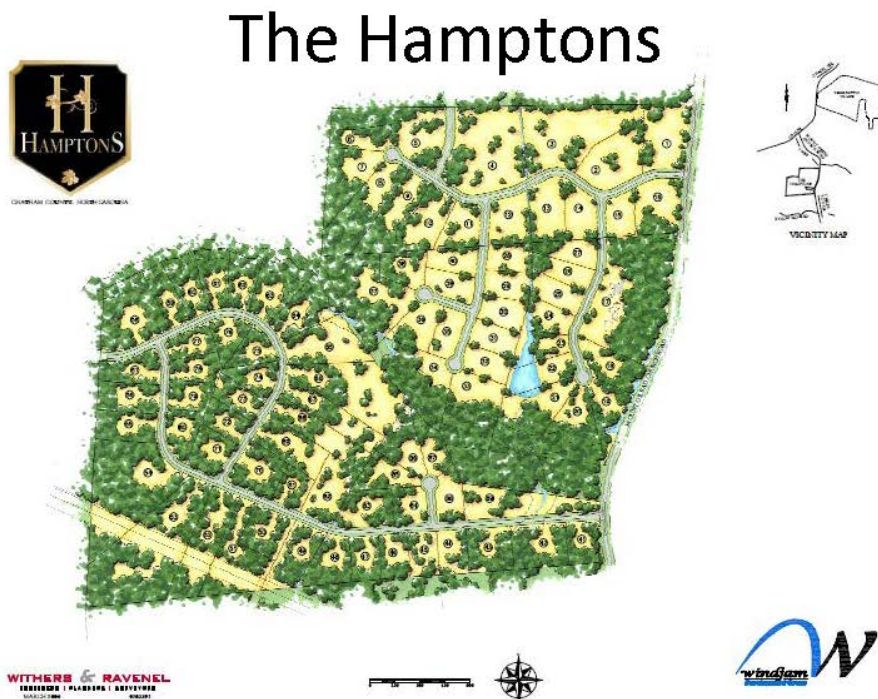


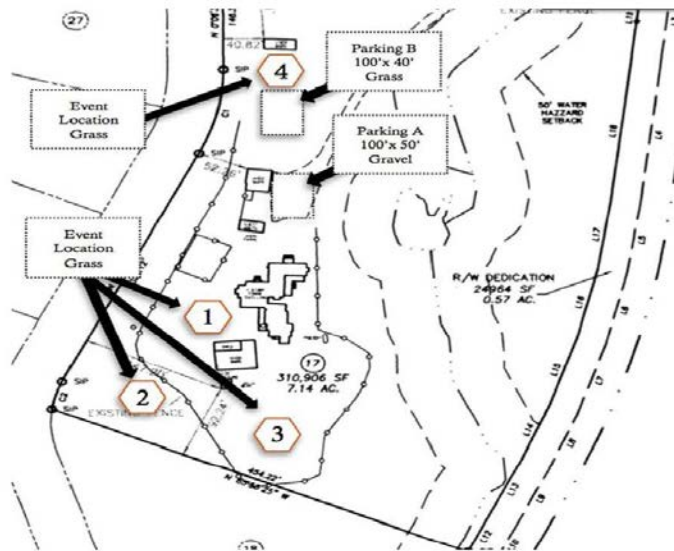
idea that such a significant harm could come to him by a proposed change in this residential corridor.

Ms. Scott presented a PowerPoint presentation as follows:.

## Opposition to Conditional Zoning District on Lot 17, The Hamptons

Windjam 23, LLC  
Sage Built, LLC  
The Hamptons Owners' Association, Inc.





**Proposal – Intensity of Uses along neighboring lots**



**Line of Sight exiting Lot 17 The Hamptons**



**Tree Lined Entry**

Note: All tree removal is subject to review and approval by Preservation Agencies pursuant to Tree Survey done at project initiation.



**Entry to The Hamptons**



**MODEL HOME FOR SALE**

Across the interior street from Lot 17 The Hamptons



**Event Tents**

Set up on Sunday November 4 for an event advertised on Website for November 10. Tents still up on Tuesday November 13.



**Gazebo on Lot 18 Boundary**

Proposed uses project sound and ceremony audience faces Lot 18.



**Two Roads Over**

Note: Building footprint, a two story home will be looking right out over the event site.



**Vehicle Parking along boundary – Harvest Lane**



**Parked Cars**

Next to Barn – Along Harvest Lane



**Catering Truck on Harvest Lane**



**Survey Tape shows Lot line along Lot 18**



**View from Lot 24**



**Toilet Trailers**





**Not pro-active, cooperative or visionary per the Land Use Plan**

Ms. Scott read a letter from Bill Lam as follows:

“I am Bill Lam, the former head Coach of the UNC-Chapel Hill Wrestling Program. I spent 30 years in UNC athletics. Through my company ‘Wrestling for Life’, I am a motivational speaker and conduct leadership seminars throughout the country. I moved to Michigan in 2004 with my wife Marilyn to care for her ill mother. We moved back to the area and did not have any intentions of building or living in Chatham County. In our extensive search we fell in love with The Hamptons for its pastoral character and privacy that each of the large estate lots present. We love Pittsboro and the special charm it offers. We have invested significant dollars in our residence as this is our “final” home. We are currently renting in Chatham County now while our Hamptons’ home is nearing its completion.

Just the other day I spoke to Sam, my Realtor, and I approached him and inquired, “Why have these large white tents have been up on Lot 17 for two weeks and what is happening?” I was informed of the rezoning and the business activities that would be allowed if a rezoning was approved and I strongly oppose it. This rezoning could devastate the character of the neighborhood and values. If I was aware of the rezoning, I would not have purchased in The Hamptons. The rezoning is not to the benefit of the residents and future homeowners in The Hamptons.

I will be moving into my newly constructed home inside of The Hamptons within the next couple of months. The purpose of this letter is to allow it to formally serve as my opposition to the rezoning of Ward’s Hollow from residential to commercial. Unfortunately, I will be out of town on Nov. 19<sup>th</sup> and not able to personally speak at the public hearing. Please let this letter emphasize my strong feelings to reject this rezoning.

Sincerely,

Bill Lam  
Lot 7 Homeowner (The Hamptons)”

Ms. Scott stated that unfortunately, many people would not have purchased in The Hamptons if they had been aware of the rezoning. This is a residential, R-1 zone, it is a

corridor of residences, and it should stay that way. She stated that they would appreciate a denial of the application.

Mr. Barber stated that with regard to the conditional zoning district, it is a device that the County came up with, recognizing that there are uses that there can be compatible uses in an area that haven't been contemplated in the past. This is zoned R-1. He thought it should be a conditional district R-1, but the zoning staff thought it should be the other one. In doing this, they looked at the permitted uses in R-1 and which ones are similar to private events such as weddings, anniversaries, birthday parties, or corporate events. If we look at the permitted uses in R-1, 1) a conditional use in R-1 are golf courses, tennis, recreation clubs with a minimum lot area of five acres provided that all buildings and structures shall be set back a minimum of two times the minimum yard requirements for the district in which this is located. Our plan calls for being set back two times. It's not five acres, it is seven acres. He stated that grounds for facilities for nonprofit clubs with a minimum lot area of three acres provided that all buildings and structures are set back a minimum of two times. Growing up in Pittsboro, the Kiwanis Club was a block behind his house which he felt was a benefit and not a nuisance and it was in a residential area. The most common places for weddings in Chatham County are churches. Churches are a permitted use. Weddings are a permitted use in R-1 districts. When someone wants to do this at their home, it is especially appropriate at historical sites.

In addressing some of the people who spoke, Mr. Barber stated that Kevin Flynn lives in Monterrane which is about a mile away from there. William Fischer spoke about traffic. With the wedding party, they figured ten cars per day per house which would equate to 840 trips per day if they sell out. Traffic with one wedding every week or two would be minimal. The historic house is on the web site of notable, modern houses in the Triangle Area. The others who spoke against it are associated with The Hamptons. They are associated with Windjam and Mr. Vick. As of July, when Mr. Ringeisen came to see him, he was sincere in saying that the folks in The Hamptons are supportive of what they are doing. He came to see him because he got lost in the puzzle of the permits he needed to obtain.

Mr. Barber stated that Mr. Vick bought all the land that included Ward's Hollow. He imposed restrictive covenants on Ward's Hollow. He specifically excluded Lot #17. Ms. Scott would have everyone believe it was because they were not going to regulate the shutters, etc. and she referenced Governor's Club. He stated that he represented Governor's Club and drafted the restrictions and the first twenty-six amendments to those restrictions in Governor's Club. Ms. Scott may not be aware, but in Governor's Club, there is section after section, and the restrictions that apply in one neighborhood are different than those in another neighborhood. The restrictions that apply to the area around the golf club are different than those in another neighborhood. Within the Governor's Club development, there are private clubs, swimming pools, golf club, tennis area, and another kind of community area over the mountain where people have parties, weddings, where tents are set up, and people pay more for lots in Governor's Club where you can get a lot closer to a white fence than in Ward's Hollow. Mr. Vick bought the property and excluded the Lot #17 tract from it. He sold it to Steve Young who was an employee of his. In 2008, after Mr. Young purchased the property, he incorporated a business called "Hamptons Homeplace Events", created a website for it, and advertised for April, June, September, October weekend on a Friday or Sunday bookings for \$1,600.00. Mr. Vick and his employee were promoting it for events. Prior to Mr. Ringeisen purchasing the property, he talked with Mr. Vick who asked if they could hold the NC Children's Promise Gala. He agreed to it which led into a discussion regarding Mr. Ringeisen putting up a web site about Ward's Hollow and what he wanted to do there. Mr. Vick was gracious as to permit him to use his logo so as to make his website compatible and referred him to his website designer. After Mr. Ringeisen got his website established, he put a link from The Hamptons website to his event website. This happened in August. About the time Mr. Ringeisen bought the property, he realized it would be better to realign the boundary with Lot #17. There were complications in it. After he bought it, the gala was held. In the spring of 2011, Mr. Ringeisen received an email from Mr. Vick stating that he had referred the event planner to him about a wedding. Mr. Vick emailed Mr. Ringeisen on May 15, 2011, responding to the event planner, and stated "In Garner they are doing something similar with the Rand Bryan House est. 1871. Appears historic homes are

becoming a very popular venue for event/weddings. The demand should be great for Ward's Hollow." That was Mr. Vick's vision when he bought it, renovated the site, began making the improvements, and when the initial application was filed with the Appearance Commission in July. This is no surprise to Mr. Vick. It is his suggestion.

Mr. Ringeisen stated that he was an individual working to better his and his family's future. At no time, are they looking to harm any other businesses or other people. He stated that they had been transparent in terms of their intent for the property. It was based on past uses of the property which were used for the UNC Children's Hospital and social gatherings at the same location. The use of this location as an event venue has been popular over the years. They believe that under the right stewardship, they can provide an upscale wedding event venue, a low-impact with one wedding per weekend. Respective to the tent, he stated had he been aware that the current tents being up would have posed a problem, he would have taken them down. The reason the tent stays up is because he had to pay a \$50.00 charge to have it inspected by the Chatham County Fire Marshal. If the tent was taken down and set back up, it would have to be re-inspected and pay another fee. He stated that he had asked the Fire Marshall if there would be a problem with leaving the tent up without being a business and without being rezoned as a a resident of the area. The idea of them trying to harm anyone in the area is far from the truth.

Mr. Barber stated that Mr. Ringeisen responded to the things in question. When people were parking on the public street that adjoins the property and neighbors objected, Mr. Ringeisen stopped it. They stopped delivery trucks. They will put up signs to let people know which driveways to use.

The Chairman thanked everyone for their time and the information presented to the Board. He closed the floor for public comments.

### **MANAGER' S REPORTS**

The County Manager had no reports:

### **COMMISSIONERS' REPORTS**

#### **Capital Improvements Plan Work Session:**

Chairman Bock invited everyone to the Capital Improvements Plan work session to be held on Tuesday, November 20, 2012 at 9:00 AM in the Ag Auditorium.

#### **Health Department Accreditation:**

Commissioner Petty congratulated the Chatham County Health Department on their perfect score during their accreditation process.

### **ADJOURNMENT**

Commissioner Cross moved, seconded by Commissioner Stewart, to adjourn the meeting. The motion carried five (5) to zero (0), and the meeting adjourned at 10:21 PM.

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Brian Bock, Chairman

ATTEST:

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