

**CHATHAM COUNTY PLANNING BOARD**  
**MINUTES**  
**October 3, 2006**

The Chatham County Planning Board met in regular session on the above date in the auditorium of the Cooperative Extension Building in Pittsboro, North Carolina. A quorum was present to begin the meeting. The members present were as follows:

Present:

Mark McBee, Chair  
Cecil Wilson, Vice-Chair  
Evelyn Cross  
Charles Eliason  
Clyde Harris  
Sally Kost  
Paul McCoy  
Mary Nettles  
Chris Walker

Absent:

Martin Mason

Planning Department:

Keith Megginson, Planning Director  
Jason Sullivan, Assistant Planning Director  
Lynn Richardson, Subdivision Administrator  
Angela Birchett, Zoning Administrator  
Kay Everage, Secretary to the Board

- I. CALL TO ORDER: Chairman McBee called the meeting to order at 6:00 p.m.
- II. APPROVAL OF AGENDA: Ms. Kost asked that the following revisions be made to the September 5, 2006 Planning Board minutes:

- Page 120 – second full paragraph that states, “Ms. Kost inquired if an actual survey was done for the Carolina Ladle Crayfish and the Four-toed Salamander. Mr. Gainey stated that a survey was done for these”.

Ms. Kost stated that Mr. Gainey indicated that the habitat was there but she does not think that a survey was actually conducted.

Following discussion, it was the decision of the majority of the Board that Mr. Gainey had acknowledged that a survey was conducted and that this portion of the minutes should remain as submitted.

- Page 133 – Item #3. Discussion of format of applications and requests, (paper versus digital) that states, “Mr. Megginson stated that staff receives a great deal of application material and prefers not to copy everything; that staff is trying to move in the direction of referring Board members to our website for various information; and that staff would continue to provide the Board with any large application booklets”.

Ms. Kost requested that the following sentence be added to the above paragraph:

“Mr. Megginson stated that the agenda items would reference any material not included in the packet”.

Following discussion, it was the consensus of the Board that the above sentence be added to the minutes as noted.

Ms. Cross made a motion; seconded by Ms. Kost to approve the agenda as submitted with revision to the minutes as noted above. There was no discussion on the motion and the motion passed unanimously. (9 Board members)

III. CONSENT AGENDA: Ms. Kost asked that Item B. (Briar Chapel preliminary plat approval) be removed from the consent agenda for discussion. Mr. Wilson made a motion; seconded by Mr. Walker to approve the consent agenda (Item A. September 5, 2006 Planning Board minutes with the one change noted above; and Item C. final plat approval of Cedar Grove subdivision as submitted). There was no discussion on the motion and the motion passed 8-1-0 with Wilson, Walker, Eliason, Cross, Harris, Kost, McCoy and Nettles voting in favor of the motion; and McBee voting against.

A. Minutes:

Consideration of a request for approval of Board minutes for September 5, 2006 Planning Board meeting.

~~B. Preliminary Plat Approval:~~

~~Request by Kevin Hamak, RLA, The John R. McAdams Co., Inc. on behalf of NNP Briar Chapel LLC for subdivision preliminary approval of “Briar Chapel, Phase IV, Pod A, B, C. and D (Including Phase 3 ROW)”, consisting of 323 lots on 152 acres, located off U. S. Hwy 15-501, Baldwin Township.—This issue was removed from the consent agenda and is discussed below under item IV. B.~~

C. Final Plat Approval:

1. Request by Mac Development Company for subdivision final approval of “Cedar Grove, Phase 4A (Lots 19 – 23)”, consisting of 6 lots on 21 acres, located off Jones Ferry Road, SR-1540, Baldwin Township.

End Consent Agenda

IV. A. PUBLIC INPUT SESSION: Fifteen-minute time of public input for issues not on agenda. Speakers limited to three minutes each.

No one requested to speak at this time.

B. PRELIMINARY PLAT APPROVAL: *Note: This item was removed from the consent agenda for discussion.*

Request by Kevin Hamak, RLA, The John R. McAdams Co., Inc. on behalf of NNP Briar Chapel LLC for subdivision preliminary approval of “Briar Chapel, Phase IV, Pod A, B, C, and D (Including Phase 3 ROW)”, consisting of 323 lots on 152 acres, located off U. S. Hwy 15-501, Baldwin Township.

No adjacent property owners spoke.

Ms. Kost stated that this issue should not have been initially listed on the consent agenda since it is the largest development ever proposed for Chatham County. Some of her concerns are noted below.

- How does this (plan) differ from what was approved earlier, i.e. road change for the Tripp property, some roads are private
- Update of the schedule, i.e. where the development is in the scheduling
- Understanding of phasing, i.e. future submittals
- Is dirt to be hauled off-site or stay on the property

Ms. Richardson explained that at this point in the process the application meets the technical requirements for subdivision and zoning.

Mitch Barron, Development Manager, Newland Carolina, and Kevin Hamak, John R. McAdams Co., Inc. were present. Mr. Barron stated that there was a typo on the schedule that stated “residential home construction – early Spring 2006” and should have stated “2007”; that the road next to the Tripp property was taken off the original plan through a rezoning modification process; and that other than this it is the same plan that originally went through the rezoning public hearing process. Mr. Hamak stated that three (3) private streets are proposed around the clubhouse area to maximize pedestrian accessibility and accommodate some street parking in this area. He noted that NCDOT has changed from using the traditional neighborhood development street guidelines to using their standard subdivision streets. Mr. Barron stated that this is the first phase of the development; that 323 lots are proposed in this section and that the second and third phases would follow; that this would be enough inventory to get started and last for 1 – 2 years; that it is uncertain at this point where future phases are planned (i.e. towards Manns Chapel or Andrews Store Road); that he would hope that commercial areas would be developed very quickly after this first phase but that the market would dictate this; that to be conservative the commercial build-out could be as far away as the year 2010-2011; that it is the goal of the developer to keep all dirt on site although some dirt could be hauled off in the future; but that it is in the interest of the developer to keep all dirt on site, i.e. expense of transporting the dirt.

There was no further discussion. Mr. Wilson made a motion; seconded by Mr. Eliason to grant approval of the road names listed above and alleyway names shown on the preliminary plat and granting preliminary approval of “Briar Chapel, Phase IV, Pods A, B, C, and D (Including Phase 3 ROW)” as submitted and as recommended by staff, with the following condition:

1. The final plat shall include the changes and/or items as specified above.

There was no discussion on the motion and the motion passed 7-0-2 with Wilson, Eliason, McBee, Cross, Harris, McCoy and Nettles voting in favor of the motion; and Kost and Walker abstaining.

V. SKETCH DESIGN APPROVAL:

- A. Request by Sears Design Group, P. A. on behalf of Fitch Creations, Inc for subdivision sketch design approval of "McDowell Place Subdivision", consisting of 15 lots on 17 acres, located off Weathersfield, SR-1812, and Williams Township.

Ms. Richardson reviewed the agenda notes for this request. She stated that this request is a part of the Village of Ferrington Planned Unit Development.

No adjacent property owners spoke.

R. B. Fitch, Fitch Creations, Inc., was present.

There was no discussion among the Board. Mr. Eliason made a motion; seconded by Ms. Cross to grant sketch design approval of "McDowell Place" as submitted and as recommended by staff. There was no discussion on the motion and the motion passed unanimously.

VI. ZONING AND ORDINANCE AMENDMENTS:

**Items from July 17, 2006 Public Hearing:**

- A. Request by Contentnea Creek Development Co. for a zoning district change from RA-5 to RA-90, on property consisting of 130 acres, located off SR-1714, Hatley Road, New Hope Township.

Chairman McBee stated that the applicant has requested that this issue (item A. listed above) be postponed until after items F. and G. listed below are acted on.

- B. Request by Baycorp Development, Inc. on behalf of Ridgely W. Cook, Jr. and Julia Ann Cooper to rezone 1.35 acres, located off US 15-501 N, Baldwin Township from RA-40 Residential Agricultural to a Conditional Use B-1 Business District.

- C. Request by Baycorp Development, Inc. on behalf of Ridgely W. Cook, Jr. and Julia Ann Cooper for a Conditional Use B-1 Business Permit for banks, savings and loans, finance companies, credit agencies, and similar financial institutions on 1.35 acres, located off US 15-501 N, Baldwin Township.

Chairman McBee stated that the applicant has requested that items B. and C. listed above be postponed until the November 6, 2006 Planning Board meeting.

- D. Request by Blake & Associates, Inc. on behalf of HBP Properties, LLC for a B-1 Conditional Use Permit for Retail / Office Buildings / Restaurants / Bank / Insurance / Financial Services / Specialty Retail / Furniture / Pet Shop / Art House Theatre / Gallery / Pharmacy / Drug Store / Engineering / Service Offices / Distribution Centers (see application for specific uses), on 40 acres, located at the intersection of U. S. Hwy 15-501 N. and SR-1530, Polks Landing Road, Baldwin Township. (Note: The Planning Board approved the Conditional Use District request during the September 5, 2006 Planning Board meeting.)

Ms. Birchett reviewed the agenda notes for this request. She stated that during last month's Planning Board meeting the Board recommended approval of the conditional use district request by Blake & Associates, Inc. for Polks Centre and tabled the conditional use permit issue; that the permit request was tabled based on the need for additional information for findings of fact #2 (either essential or desirable for the public convenience or welfare) and #5 (adequate utilities, necessary facilities, i.e. wastewater and soil suitability for the site); that based on information received from the applicant it is the recommendation from staff that finding #2 has not been satisfied; that staff is satisfied that finding #5 has been supported; and that it is the Planning Department opinion that the request should be denied.

Board discussion followed. Mr. Walker asked staff to verify the problem with finding #2 relative to other similar uses that have been requested. Ms. Birchett stated that the total square footage of commercial projects currently operational, under development, or to be developed is approximately 2.3 million (not counting this project); that some of these same proposed uses were also listed in the Williams Corner application; that there are some differences in the proposed uses but overall the open retail flex space is approximately the same. Mr. McCoy stated that the applicant has spent a good deal of time and effort to get to this point in the process and that Mr. Blake should be allowed an opportunity to voice his comments especially regarding finding #2. Ms. Kost stated that it doesn't seem fair, (with talking about commercial development in 2011 – 2012), that it is holding applicants like Mr. Blake hostage because it is so far down the road, but yet we consider this when evaluating finding #2. Mr. Megginson stated that probably every project considered, unless the request is fairly unique (i.e. offers something that many people need and is not available in Chatham County), it will always be subjective to how finding #2 is interpreted.

Travis Blake, applicant, stated that individual market studies were made; that he is also developing Williams Corner; that he would be monitoring the competition between Williams Corner and Polks Centre; that there would be no duplication of services unless the two services think that they are compatible; that 50,000 sq. ft. of the proposed 125,000 sq. ft. is flex space; that approximately 30,000 sq. ft. is an office supply; that the remaining 45,000 sq. ft. would house a bank and three or four restaurants; that various businesses have already submitted letters of interest; that the need and desirability could be best judged by the willingness of these various businesses to come into the development; and that he has lived in Chatham County his entire life and is attempting to bring needed services into the County. Mr. Blake assured the Board that Polks Centre would be much

nicer than the Chatham Downs development, i.e. vegetation, plantings, and site. He noted that he is in agreement with the thirteen (13) conditions recommended by staff

Mr. McCoy made a motion; seconded by Mr. Walker to grant approval of the request as submitted with the following conditions:

1. A lighting plan shall be supplied to and approved by the Planning Department prior to approval of the first building permit being issued. All lighting shall meet the requirements of the draft Chatham County Lighting Ordinance.
2. Signage shall be as specified on the site plan. Signage shall meet the requirements of the zoning ordinance for a Business (B-1) zoning district where no one sign shall exceed 150 square feet in size.
3. The recommendations from the Appearance Commission for landscaping shall be followed and a new landscape plan submitted and approved by the Planning Department prior to installation of the first plantings. Plantings shall start at the next optimal planting season from the date of permit approval.
4. A new site plan depicting the right-in/right-out only at the south drive shall be provided prior to issuance of the first building permit.
5. The proposed new road connecting US 15-501 with Polks Landing Road shall be a public road built to NCDOT standards and dedicated to the NCDOT.
6. Setbacks from Cub Creek shall be 100 feet on each side for buffers and the storm water management pond. A new storm water management plan shall be submitted to the Planning Department prior to issuance of the first building permit. The storm water design shall be at a minimum to the requirements specified in Section 8.5.4 Storm Water Runoff of the application.
7. Parking requirements for the request shall be as outlined in the Zoning Ordinance, Section 12 and the Chatham County Design Guidelines.
8. An approved wastewater disposal site plan and permit from NCDWQ and any other departments as deemed necessary with respect to the wastewater disposal shall be supplied prior to issuance of the first building permit.
9. All required perimeter landscaping and buffering shall be installed prior to the issuance of certificate of occupancy for the first structure or at the first optimal planting season following the issuance of the certificate of occupancy.
10. Dumpsters shall be screened to meet Chatham County guidelines.
11. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Erosion Control etc.) shall be obtained and

copies submitted to the Planning Department prior to issuance of the first building permit.

12. Off-site improvements required by NCDOT or any other agency shall be constructed at no cost to Chatham County.
13. The first building permit shall be issued within 24 months from the date of this permit's approval or the expiration of the appeal period or any court decision, whichever is later or this permit will automatically expire and become void.

There was no discussion on the motion and the motion passed 5-4 with McCoy, Walker, Cross, Kost and Nettles voting in favor of the motion; and McBee, Wilson, Eliason and Harris voting against.

**Items from September 18, 2006 Public Hearing:**

- E. Public Hearing request by McLean Family LTD, Partnership to rezone approximately 470 acres located off Big Hole Rd. (Private), Williams Township from RA-5 to RA-90.

Ms. Birchett reviewed the agenda notes for this request. She stated that after the agenda notes were prepared staff was informed by Kristen Sinclair with the North Carolina Natural Heritage Program that a portion of this property (the majority of the McLean tract) still remains within the Big Woods Wilderness Significant Natural Heritage Area.

Mr. Megginson gave a brief synopsis regarding the Big Woods Wilderness Significant Natural Heritage Area. He stated that things were put into different classifications when the inventory was done; that various geographic areas were placed in different categories; that this particular one (at the time it was done) was the largest, roadless, undeveloped tracts of land in the Triangle for wildlife habitat; that following this designation, Ed Gallup (owner of Tar Heel Wood Treating Company) timbered his land and created Big Woods Subdivision; that this changed the designation; that The Preserve and The Legacy were later developed within the Big Woods Wilderness; and that because of these changes in the larger undeveloped parcels the State acknowledges that the area is no longer wilderness, i.e. houses very low / high density and have changed the area.

Ms. Kost asked, 1.) Why the North Carolina Natural Heritage Program hasn't taken this area off if things have significantly changed, 2.) Does the fact that this area still remains within the Big Woods Wilderness not change staff's recommendation, and 3.) Are we being consistent with this request relative to the Cooper request (rezone from RA-5 to RA-90 with a site plan in place) and this being only a rezoning request without a subdivision plan? Mr. Megginson explained that the state still considers this land significant as far as a wilderness area. Ms. Birchett cited that tonight's agenda notes state that further study of this site (relative to the Natural Heritage Program) is recommended should the property be subdivided, i.e. possible occurrence of the Carolina Ladle Crayfish; and that the Office of State Archaeology has noted that there were two (2) recorded sites located in the southeast corner of this parcel by Environmental

Services, Inc.; and that further study of this site is recommended pending development or subdivision of the land. Mr. Megginson stated that this property currently does not have public road access; that Big Hole Road (private road off Mt. Gilead Church Road owned by individual property owners) is the access; that tonight's agenda notes address changed conditions; that the Land Development Plan recommends that these designated areas maintain RA-5 zoning; that this is the only area that is not along the river that has the RA-5 designation; that the reason for the zoning was because of the Big Woods Wilderness; that it was thought that such a large lot with zoning may not be developed and if so it would be only partially developed; and that this has not been the case with the various PUD's approved and developed in this area. Mr. Megginson noted that the conditions in the Cooper application could not be required without the request being a conditional use permit and/or conditional use district.

No adjacent landowners spoke.

Jennifer Andrews, attorney, was present representing the applicant. Ms. Andrews stated that the above discussion regarding the Natural Heritage Program should not leave the impression that this is somehow a conservation easement or something that these individuals have registered their property for; that this is something that the State has done and submitted this property; that any large tract of land anywhere is a significant wildlife or natural heritage area until it changes and then it is not; that this is what has happened with this proposed property; that if the Board approves this rezoning request and there is a subsequent subdivision request in the future then this land would likely come off the Natural Heritage Program; and that the State would then revise their report once again as was done with Fearington, The Legacy, The Preserve and others surrounding this property. Ms. Andrews noted that the applicant could have submitted a request for RA-40 zoning instead of RA-90. She distributed a map produced by the CE Group, Inc. that shows density for the various jurisdictions around Jordan Lake. (A copy of this map is on file.)

Allison Weakley, a biologist who lives at 311 Boothe Hill Road, Chapel Hill, NC, stated that this area is still considered significant by the Natural Heritage Program. She noted the following specifics concerning the proposed property.

- extensive upland hardwoods, deciduous trees (not only pine trees)
  - proximity to Jordan Lake for area sensitive species, i.e. bobcat, wild turkey, woodpeckers and owls
- and,
- connectedness to Jordan Lake.

Ms. Weakley stated another reason for keeping the current zoning in this area is to protect the water quality of Jordan Lake; that The Preserve has recently been removed from the Big Woods Wilderness Significant Natural Heritage Area since the development is not in keeping with the natural area; and that this area is mentioned in our Land Use Plan that supports site based planning (i.e. looking at things on a site level especially relevant to significant natural heritage areas and their species).



Motion to grant approval of the request:

Mr. Wilson made a motion; seconded by Mr. Harris to grant approval of the rezoning request for the RA-5 zoned portion of this property to an RA-90 zoning district as submitted and as recommended by staff.

Discussion followed. Ms. Kost stated that if the Land Use Plan states that wildlife areas should be preserved would this not be inconsistent with said Plan. Mr. Megginson stated that language in the Land Use Plan is not that broad regarding the protection of wildlife habitat areas; that page 3 of the Plan, Major Recommendations, #3 states, "Retain the current 5-acre average lot size in the areas designated in the Watershed Protection Ordinance and shown as resource protection areas on the community plan map"; that the Watershed Protection Ordinance was for the river corridor areas (1/2 mile each side of the river) and the resource protection was the wilderness area; that Ms. Weakley gave more detail as to why these areas are significant for those types of species; that the proposed area is not within the river corridor but is within the resource protection area; and that because of the changed conditions staff recommends approval of the rezoning request to RA-90.

Ms. Andrews stated that the 1992 voluntary study referenced above by Ms. Weakley is approximately 600 pages; that what pertains to this property is Section 541 and states:

"The last category of these sites includes six (6) large areas of upland forests although all of them contain scattered patches of mature upland hardwoods. All have also been extensively exploited for timber and can hardly be considered pristine natural areas".

Ms. Andrews asked Board members to not be too concerned about this issue. She stated two specific points:

- density concerns have been mitigated, and
- various concerns regarding the Carolina Ladle Crayfish, archeological sites, and etc. would be discussed when and/or if a subdivision is proposed.

Discussion followed. Mr. Walker stated that this request has no proposed plan in place and he does not see a reason to change the zoning. Ms. Cross pointed out that it is sometimes difficult to determine where to draw the line with regards to advising a property owner how they can use their property as long as it doesn't endanger someone else. She noted that this property is not within the river corridor and that if the applicant submits a subdivision request the Board would decide at that time if the proposal has any negative impacts.

Vote on the above motion to grant approval of the request:

The motion passed 6-2-1 with Wilson, Harris, McBee, Cross, McCoy and Nettles voting in favor of the motion; and Kost and Walker voting against; and Eliason abstaining.

- F. Public Hearing request by Contentnea Creek Development Co. to rezone approximately 130 acres located off Hatley Rd. (SR 1714), New Hope Township from RA-5 to Conditional Use RA-90 District.

Ms. Birchett reviewed the agenda notes for this request. She stated that this is the same applicant that requested a straight zoning district change of the property but asked that the request be postponed pending the outcome of this request from the Board of Commissioners (i.e. Item VI. A. on tonight's agenda); that this was prompted by the fact that several citizens requested that conditions be applied to the site, i.e. additional stream buffering, extension of Hatley Road (public road), access to County water, and etc.; and that conditions could not be attached and/or enforced to a straight zoning request.

No adjacent landowners spoke.

M. Gray Styers, Jr., attorney, was present representing the applicant.

Discussion among the Board followed. Chairman McBee explained that at this stage in the process the Board is considering the request to change the zoning to conditional use RA-90 (from RA-5) that would allow the inclusion of conditions. Ms. Kost asked what size water pipe would be used in providing water to this property. (i.e. off Big Woods Road from Windfall Subdivision).

Jonna Birtcher, Vice President of Development, Contentnea Creek Development Co., stated that if public water is provided to this property through Windfall Creek that a 12" pipe would be used.

Mr. Megginson stated that the water line policy of the County is that with a certain number of lots you have to extend the line so many feet per lot; and hat when it is said that water is available it is within this distance that the developer is required to extend.

Mr. McCoy stated that during the recent public hearing only one person spoke in opposition of this request; and that generally the people in this area are very satisfied that this proposal would create something that they would like to see happen. Mr. McCoy made a motion; seconded by Ms. Cross to grant approval of the rezoning request as submitted and as recommended by staff. Discussion on the motion followed. Ms. Kost stated that this property is within the wildlife area; and that some of the same concerns that she and Mr. Walker shared for the previous action taken by the Board is shared with this request as well. Mr. Walker stated that he has the same concerns; that he is unsure as to what the transition is supposed to be or what it accomplishes; and that he does not think that it would improve anything to change the zoning. There were no further comments. The motion passed 7-2 with McCoy, Cross, McBee, Eliason, Harris, Nettles, and Wilson voting in favor of the motion; and Kost and Walker voting against.

- G. Public Hearing request by Contentnea Creek Development Co. for a Conditional Use RA-90 Permit for a 63 lot single family residential subdivision with site plan on approximately 130 acres located off Hatley Rd. (SR 1714), New Hope Township.

Ms. Birchett reviewed the agenda notes for this request. She stated that the conditional use permit request serves as the initial phase of sketch design for a later subdivision request; and that this area is within the significant Big Woods Wilderness Significant Natural Heritage Area.

No adjacent landowners spoke.

M. Gray Styers, Jr., attorney, was present representing the applicant. Mr. Styers stated that Jonna Birtcher has been away on vacation; that he was out of the office yesterday and has not had a chance to communicate with the Planning Department regarding staff's proposed conditions; that they are in agreement with most of the proposed conditions; but asked that revisions to conditions #1, 2, 4 and 8 be considered as follows:

*Condition #1 that reads: "A seventy-five (75) foot "undisturbed" buffer shall be installed and maintained around the entire perimeter of the development. Should there be areas of little or no vegetation to act as an adequate buffer, the owner/developer shall install such vegetation at the next optimal planting season and shall be complete before the first certificate of occupancy is approved".*

Mr. Styers stated that the application text references provisions for a 75 foot view shed buffer along Hatley Road; that any gaps would be filled with existing vegetation as proposed in staff's recommendation; that the application text does not address providing a 75 foot buffer along the balance of the perimeter (although the engineer shows this buffer on the survey map); that there would be constraints about the utilization of the soils in these areas if this extensive buffering is required; that the applicant asks that this condition be modified to comply with intent which was a 75 foot buffer along Hatley Road; and that the only other 75 foot buffering would be for septic field provisions if needed.

*Condition #2 that reads: "A one hundred (100) foot undisturbed buffer shall be maintained on each side of Parker's Creek at all times".*

Mr. Styers stated that the applicant is willing to double the requirements and provide 100 foot undisturbed buffers (by conservation easement) along Parkers Creek; that the applicant is also in agreement that there should only be one crossing along that creek; that at preliminary plat submittal it would be more precise as to where this creek crossing would occur based on several issues; and that the applicant would like the flexibility to cross either into the Corn property or into the Davidson property.

*Condition #4 that reads: "Stub-outs shall be installed so as to connect to adjacent property to the west owned by Chatham Land & Timber for "public" access and county water extensions and adjacent property to the north owned by Phillip W. Corn. The stub-out to the Corn property will require stream*

*crossing. Authorization from the Corps of Engineers shall be required and a copy given to the Planning Department prior to development of this area”.*

Mr. Styers asked that at this stage (subject to returning for preliminary site plan approval) a stub out not be required; but that a dedicated easement be required to provide a connection with either the Davidson or Corn properties.

*Condition #8 that reads: “Storm water measures shall be designed and installed to detain the two (2) year twenty-four (24) hour storm. BMP’s shall be used in all areas of development”.*

Mr. Styers asked that this be considered on a lot-by-lot basis; that if 15% impervious area is exceeded BMP’s would be placed for storm water controls; but that otherwise this is not an efficient requirement on 90,000 sq. ft. lots. (i.e. less than 15% impervious)

Board discussion followed. Ms. Kost noted that the map posted on the website included the 75 foot buffer and that this is probably the reason citizens and /or adjacent landowners did not have a problem with the plan.

Mr. Styers stated that given the limitations of soils, number of developable lots with septic facilities, and all the conditions promised (i.e. road and water extensions at the applicant’s expense) the engineers have stated that there would not be enough lots created to justify the cost incurred. Mr. Styers noted that during community meetings, letters, and telephone conversations with almost all adjacent landowners, there was never any mention of providing 75-foot buffers.

Jonna Birtcher stated that she does not have a problem leaving the 75 feet as shown on the plat map except where the areas of usable, suitable soils intrude; and that in this particular area she proposes to clear just enough trees for septic areas; that she has explained this to the neighbors and has received very positive responses; and that Mr. Davidson has expressed concern for access through the Cooper property since he has trouble maintaining his existing access due to the land being so fragile.

Discussion followed. Mr. Megginson noted that the Corn property is landlocked while the Davidson property has existing access.

Mr. Styers cited that the applicant would preserve the 75 foot buffer except where needed for septic fields and would accept staff’s recommendation regarding access, i.e. Davidson or Corn property; that he appreciates the Board’s consideration of this request and the conditions he has proposed tonight with the modification discussed above regarding condition#1 (i.e. undisturbed buffer, except on places other than Hatley Road, the applicant would be allowed to clear for septic fields.)

Mr. Megginson explained that changes can be made after specifics are shown at public hearing and advertised if the changes are less adverse or have less impact to neighbors; and that Mr. Styers’ requests would not be taking away any public protection as advertised if they are attached specifically to the application

that explains various reasons, i.e. utility easements, road interconnection and necessary septic fields with acceptable soils.

Allison Weakley stated that there is science on stream buffers and this information is posted on the County's website (i.e. study done in Georgia on various stream buffer widths and their benefits to water quality).

The Board discussed revised language to the following conditions:

Condition #8 - "if the total impervious surface area for the project including roads exceeds ten percent (10%)"

Condition #4: - "Public dedicated right-of-way shall be established to future permission granted to allow for the construction of public access and utility connection to the adjacent property of Chatham Land and Timber and Corn and/or Davidson property (at the discretion of the applicant)".

Mr. Eliason made a motion; seconded by Mr. McCoy that the five findings be made and that the request be approved with revisions to conditions #1, #2, #4, and #8 as follows:

**Condition #1:** 75 foot buffer be undisturbed except for three uses; 1) Installation of utilities; 2) Installation of sub-surface wastewater systems; and 3) Roadway connections.

**Condition #2:** add – undisturbed buffer shall be maintained "by conservation easement" on each side of Parker's Creek at all times

**Condition #4:** 60 foot perpetual public right-of-way be dedicated to the Corn property (and that if a right-of way can be established with one single creek crossing to the Davidson property that this be allowed); and that there be a stub to the Chatham Land and Timber property.

**Condition #8:** Change from 15% to 10%

The motion passed 7-0-2 with Eliason, McCoy, McBee, Cross, Harris, Nettles and Wilson voting in favor of the motion; and Kost and Walker abstaining. The nine (9) conditions are as follows:

- 1) A seventy-five (75) foot "undisturbed" buffer, with the exception of the removal of existing vegetation needed for utility easements, road interconnections, or necessary septic fields with acceptable soils, shall be maintained around the entire perimeter of the development. Should there be areas of little or no vegetation to act as an adequate buffer, the owner/developer shall install such vegetation at the next optimal planting season and shall be complete before the first certificate of occupancy is approved.
- 2) A one hundred (100) foot undisturbed buffer shall be maintained by conservation easement on each side of Parker's Creek at all times, except as required for access of public dedicated right of way and utility crossings.

- 3) The owner/developer shall provide extension and installation of the Chatham County Water System to this property and provide easement access to adjacent properties for future connection to the water system.
- 4) Public rights-of-way shall be established and dedicated by the time of final plat approval for future public street access and utility connections to adjacent property to the west, currently owned by either Chatham Land & Timber and to the north, currently owned by Philip W. Corn. The applicant has the option to extend right-of-way and utility connections to the eastern property currently owned by Michael Davidson from the north side of Parker's Creek. Only one (1) stream/creek crossing across Parker's Creek shall be permitted for road access. Authorization from the Corps of Engineers shall be required and a copy given to the Planning Department for all stream/creek crossing.
- 5) The state maintained portion of Hatley Road is to be extended to the corner of Michael Davidson's southwestern property corner. This will eliminate the need for a second creek crossing, thus reducing unnecessary pollutants into or near the stream.
- 6) All lighting shall meet the requirements of the Chatham County "Draft" Lighting Ordinance. A lighting plan shall be submitted and approved by this office prior to the issuance of the first building permit.
- 7) Signage shall comply with the Chatham County Zoning Ordinance specifications. Signage is allowed at the entrance of the development on Hatley Road.
- 8) Permanent storm water control measures shall be designed and installed to detain the two (2) year twenty-four (24) hour storm if the total impervious surface area for the project including roads exceeds ten percent (10%).
- 9) All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Erosion Control etc.) shall be obtained and copies submitted to the Planning Department prior to issuance of the first building permit.

10-minute break

- H. Public Hearing request by Walter Lewis to rezone approximately 5.35 acres located at the corner of US 64 E and Bob Horton Rd. (SR 1744), New Hope Township from RA-40 Residential Agricultural to Conditional Use B-1 Business.

Ms. Birchett reviewed the agenda notes for this request. She stated that tonight's agenda (Item I) incorrectly states outdoor storage; that there is no outdoor storage proposed for this facility (all indoor storage); and that staff thinks that this would be a good location for the rezoning request since this US 64 quadrant is already built up in commercial area.

Walter Lewis, developer, was present.

Jean Fish, adjacent landowner, stated that she is not opposed to the project, that she has had unpleasant experiences in the past with other developments adjacent to her land, i.e. mud in her pond; that she wants to make sure that this is an attractive facility; and that there be no erosion problem on her property again.

There was no discussion among the Board. Mr. Wilson made a motion; seconded by Mr. McCoy to grant approval of the request as submitted and as recommended by staff. There was no discussion on the motion and the motion passed unanimously.

- I. Public Hearing request by Walter Lewis for a Conditional Use B-1 Business Permit for an indoor storage for boats, recreational vehicles, and other vehicular and self storage uses on approximately 5.35 acres located at the corner of US 64 E and Bob Horton Rd. (SR 1744), New Hope Township.

Ms. Birchett reviewed the agenda notes for this request. She reiterated that there would be no outdoor storage at this facility. Ms. Birchett stated that the only access to the property would be Bob Horton Road and would line up with the existing commercial driveway for George Farrell's establishment; that the Appearance Commission has reviewed the proposed landscaping and the Commission's recommendations have been implemented into the conditions; and that it is staff recommendation that the five findings be made and the conditional use permit be approved with the five (5) conditions listed in tonight's agenda notes.

The Board discussed vegetation and buffering.

Gray Styers, Jr., attorney, was present representing the applicant. Mr. Styers stated that the landscaping and appearance of the proposed facility was reviewed and approved by the Chatham County Appearance Commission.

Jerry Turner, plan designer for the project, stated that the proposed building (light beige) and roof (dark green) would be built of corrugated metal with a baked on finish; that the facility would conform with the Chatham County [draft] Lighting Ordinance; and that the proposed sign would match up with the proposed building and be located at the corner of Horton Road and US 64 (as shown on the landscaping plan).

Ms. Kost asked that a condition be added to staff's recommendation stating that all lighting shall conform to the Chatham County [draft] Lighting Ordinance.

Jean Fish asked that the applicant replace any trees that die. Ms. Birchett explained that if vegetation begins to die and it is still in optimal planting season staff requires the developer to replant; but that if it is not in optimal planting season staff allows the developer to wait until planting season to replant and maintain the vegetation.

There was no further discussion. Mr. McCoy made a motion; seconded by Mr. Harris that the five findings be made and the conditional use permit be approved

as submitted and as recommended by staff with the addition of a condition #6 (as discussed above and noted below) that states that all lighting shall conform to the Chatham County [draft] Lighting Ordinance. There was no discussion on the motion and the motion passed unanimously. The six (6) conditions are as follows:

- 1) The recommendations provided by the Chatham County Appearance Commission shall be applied.
- 2) There shall be no plantings, fencing, or structures allowed in the Cary Utility easement area along US 64 in front of said property.
- 3) There shall be a minimum building setback of fifty feet (50') from the front property line and twenty feet (20') from the sides and rear property lines. Within the setback areas of the northern and western property lines adjacent to residentially zoned properties, there shall be located a fifteen-foot (15') wide opaque vegetative buffer.
- 4) All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Erosion Control etc.) shall be obtained and copies submitted to the Planning Department prior to issuance of the first building permit.
- 5) A building permit shall be obtained within 24 months from the date of approval and shall remain valid at all times or the conditional use permit will be void.
- 6) All lighting shall conform to the Chatham County "Draft" Lighting Ordinance.

J. Public Hearing request by George Farrell, Jr. to rezone approximately 17.46 acres at the corner of Farrington Point Rd. (SR 1008) and McGhee Rd. (SR 1717), Williams Township from RA-40 Residential Agricultural to Conditional Use B-1 Business.

Mr. Megginson stated that this is a two part request; that one is a zoning change request for the corner property and also for a conditional use permit request; that the wastewater proposed site was not shown on the site plan; that the proposed wastewater site is located on land that Mr. Farrell has an easement on; that adjacent landowners of the proposed wastewater site were not notified; that it was not advertised that the wastewater would be off-site on a property not adjacent or owned by the applicant; that staff has some legal questions regarding this situation; that the Board could discuss both requests tonight; but that it is the request of staff that the Board refrain from any action on either request until legal questions are resolved..

George Farrell, Jr., applicant, stated that he purchased the right to the sewer in January 2006; that the only landowner in that particular area is his mother; and that his mother gave him a legal easement for access.

Chris Ketchel was present representing the applicant. Mr. Ketchel distributed copies of an on-site sewer evaluation prepared by Agri-Waste Technology, Inc.



dated August 15, 2006 and a copy of a revised site plan. Copies of these are on file in the Planning Department.

Board discussion followed.

Mr. Farrell stated that he would abstain from using off-site sewer; that he has available sewer on site.

Mr. Megginson explained that one of the findings under conditional use permit is that adequate utilities have been or are being provided; that utilities were addressed as being on-site; and that if changes made to the site plan are addressing concerns that have been raised or are making the situation better then it would not be a problem. Ms. Birchett stated that the site plan distributed tonight is not the original site plan presented at the public hearing; that another entrance has been added off Farrington Point Road; that the road closest to the subdivision has been extended; and that the configuration of the parking and natural areas have been changed. It was the consensus of the Board to make a decision on the conditional use district request and then move on to the permit request.

Conditional Use District:

Ms. Birchett stated that this property is located at a corner where commercial property currently exists; that it is a signal light intersection; that Farrell & Son Grocery has been in operation since 1974; that the computer repair and sales business was approved in 1999; that the Land Development Plan encourages sighting commercial uses along major highways in clusters at specific, designated locations; that the Plan encourages the reuse of reclaimed water that is to be utilized; and that staff recommends approval of the rezoning request.

No adjacent landowners spoke.

There was no further Board discussion. Mr. McCoy made a motion; seconded by Mr. Eliason to grant approval of the conditional use B-1 Business request as submitted and as recommended by staff. Discussion followed. Mr. Walker stated that he trusts that Mr. Farrell's plan can be worked out; that he drives by the area daily; and that he is somewhat hesitant about what other proposals might come in along this corner. The motion passed unanimously.

- K. Public Hearing request by George Farrell, Jr. for a Conditional Use B-1 Business Permit for expansion of the self-storage business located across McGhee Rd. and for flex office buildings (various business uses) with related storage located at the corner of Farrington Point Rd. (SR 1008) and McGhee Rd. (SR 1717), Williams Township.

Conditional Use Permit:

Ms. Birchett reviewed the agenda notes for this request. She stated that the original plan presented at public hearing did not show any proposed wastewater areas; that the plan did not reference that the wastewater area was proposed to be located on another property; that driveway changes were made to the original plan; that emergency vehicle access has been proposed; that the old house currently existing on the property was not found to be of historical significance

by the Chatham County Historical Society but that the Society would like to see the house moved to another location if possible for preservation; and that the Appearance Commission made several recommendations that are noted in staff's conditions. Ms. Birchett used the large overview map to explain the plan layout and staff's recommendations regarding entrances.

Ramey Kemp, Ramey Kemp & Associates, Inc. was present representing the applicant. Mr. Kemp addressed the traffic assessment prepared by his firm. He stated that he has met with NCDOT and their concern was that if a full access was built on the top driveway a left turn lane would be needed going into the site; that there are currently more left turn lanes off Farrington Point Road than are being utilized; that at peak hour approximately 20 vehicles (one every three minutes) turn in from all directions onto McGee Road; that there is not much traffic presently utilizing or anticipated to use this road; that a driveway is proposed for ingress only; that the existing left turn lane would be utilized; and that NCDOT has approved these changes.

Mr. Farrell stated that Mr. Hal House is designing his wastewater treatment system.

Board discussion followed. Mr. McCoy stated that there is not much traffic on McGhee Road and the entrances recommended by the developer should be left as planned. Ms. Kost stated that she agrees with Mr. McCoy and that it makes sense to direct traffic to a signalized intersection. She asked that the developer preserve trees as much as possible. Mr. Walker stated that he does not think that the proposed changes should be an issue if the entire buffering doesn't disappear; that basically the plan is the same; and that if the request is tabled for a month it would allow Mr. Farrell additional time to work with Mr. House in preparing a more detailed plan. Mr. Eliason stated that he likes the site plan; that he wants to be sure that we address the soils issue; and that if the site plan is approved he does not want to see any further changes made.

Mr. Walker made a motion; seconded by Mr. Eliason, to table the issue for one month to allow additional time for Mr. Farrell to present a more definitive plan. Discussion on the motion followed. Chairman McBee stated that his main concern is the spray fields. Mr. Walker amended his motion to state that the reason he is requesting the issue be tabled is regarding the concern of the wastewater treatment system (i.e. spray fields,). Mr. Eliason seconded the motion and the motion passed unanimously.

- L. Public Hearing request by Lee-Moore Oil Co to rezone a 63.3 acre tract into a 29.4 acre Conditional Use B-1 Business District and a 33.9 acre RA-40 Residential Agricultural District located off US 15-501 N, south of the Chatham/Orange County line, Williams Township.
- M. Public Hearing request by Lee-Moore Oil Co for a Conditional Use B-1 Business Permit for a home improvement center and additional retail and shops located off US 15-501 N, south of the Chatham/Orange County line, Williams Township, on 29.4 acres of a 63.3-acre tract.

Mr. Megginson stated that the above requests by Lee-Moore Oil Co. (items L. and M. above) would be reviewed during the November 6, 2006 Planning Board meeting.

VII. OLD BUSINESS:

No reports were submitted.

VIII. NEW BUSINESS:

A. Planning Director's Report

*I. Joint Chatham/Cary Planning Area*

Mr. Megginson stated that the next citizen input community meeting on the draft land use plan for Cary is scheduled for Tuesday, October 17, 2006 at North Chatham Elementary School from 5:00 p.m. – 8:00 p.m. and that plans would be posted on our website as soon as they are available.

*II. November Planning Board Meeting*

Mr. Megginson reminded the Board that next month's Planning Board meeting is scheduled for Monday, November 6, 2006 due to Election Day.

B. Planning Board Member's Report

*I. Chatham Downs update*

Ms. Kost asked if it would be appropriate for the Planning Board to have an update on Chatham Downs. She stated that the public needs to be informed on the progress of the development and that there seem to be a communication issue with citizens.

Mr. Megginson stated that the planting of trees had been mentioned earlier; that once a plan is approved then it becomes a zoning issue as to whether there is a violation of the Zoning Ordinance; that, as Ms. Birchett explained earlier, we do not ask that vegetation be planted (off season) if the plantings are not going to live; that the developer has had some problems with the landscaping firm; that there are some legal issues with the landscaping contracts; and that things are not the way the developer (or Chatham County) wanted them to be at this point.

*II. Recognition for Charles Eliason*

Representing the Planning Board members, Chairman McBee presented Mr. Eliason an appreciation plaque for his dedication and superior service as Chairman of the Chatham County Planning Board. Everyone extended Mr. Eliason a round of applause. Mr. Eliason thanked everyone.

*III. Abstentions*

Charles Eliason asked how abstentions are counted in the voting process.

Mr. Walker stated that the vote is neutral. Mr. Megginson stated that on the Planning Board an abstention is neither for nor against an issue.

- IX. ADJOURNMENT: There being no further business the meeting adjourned at 9:20 p.m.

\_\_\_\_\_  
Mark McBee, Chair

\_\_\_\_\_  
Date

Attest:

\_\_\_\_\_  
Kay Everage, Secretary to the Board

\_\_\_\_\_  
Date