

CHATHAM COUNTY PLANNING BOARD
MINUTES
November 6, 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
Martin Mason
Paul McCoy
Mary Nettles

Absent:

Chris Walker

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 – Chair: Chairman McBee called the meeting to order at 6:00 p.m.

- II. APPROVAL OF AGENDA: Mr. Mason made a motion; seconded by Mr. McCoy to approve the agenda as submitted. Mr. Megginson stated that the Parker Springs Subdivision application (Item V. B. on tonight’s agenda) did not list all adjacent property owners; that there were property owners that did not receive notice; and that this request would need to come off tonight’s agenda for review during next month’s Planning Board meeting. The Board voted unanimously to approve the agenda as submitted with the deletion of the Parker Springs Subdivision request.

- III. CONSENT AGENDA:

Ms. Kost requested the following changes to the consent agenda:

- Item A. - Minutes

Page 135, third paragraph that states: “Following discussion, it was the ~~consensus of the Board~~ that Mr. Gainey had acknowledged that a survey was conducted and that this portion of the minutes should remain as submitted”.

Ms. Kost asked that the minutes be revised to state: “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”; and that the following items be removed from the consent agenda for discussion:

- Item B. 1. (The Bluffs, Phase 1)
- Item B. 3. (Westfall, Phase 1A, 1B, and 1C), and
- Item C. 2. (The Legacy At Jordan Lake, Phases 2 & 3).

Vote to amend consent agenda items:

The vote to revise the minutes as noted above and to remove the above items from consent agenda was 4-2-2 with McBee, Cross, Kost and Mason voting in favor of the motion; McCoy and Nettles voting against; and Eliason and Wilson abstain.

Vote to approve remaining items on consent agenda:

The vote to approve items remaining on consent agenda was 4-2-2 with McBee, Cross, Kost and Mason voting in favor of the motion; and McCoy and Nettles voting against; and Eliason and Wilson abstaining.

A. Minutes:

Consideration of a request for approval of Board minutes for October 3, 2006 Planning Board meeting.

B. Preliminary Plat Approval:

1. ~~Request by Roanoke Investments, LLC on behalf of Chatham Partners, LLC and Polk-Sullivan, LLC for subdivision preliminary design approval of “**The Bluffs, Phase 1**”, consisting of 36 lots on 180 acres, located off SR-1520, Old Graham Road, Hadley Township. *Note: This item was removed from consent agenda for discussion. See Item IV. B. 1.*~~

2. Request by Wrenn Brothers, Inc. for subdivision preliminary design approval of “**Knoll Ridge Estates**”, consisting of 15 lots on 77.5 acres, located off SR-1130, Oakley Church Road, Matthews Township.

3. ~~Request by MacGregor Development Company on behalf of Over Jordan, LLC for subdivision preliminary design approval of “**Westfall, Phase 1A, 1B, and 1C**” (formally Booth Mountain), consisting of 94 lots on 160 acres, located off SR-1721, Lystra Road, and SR-1717, Jack Bennett Road, Williams Township. *Note: This item was removed from consent agenda for discussion. See Item IV. B. 2.*~~

4. Request by Community Properties on behalf of Chatham Partners, LLC and Roanoke Investments, LLC for subdivision preliminary design approval of “**Creekside**”, consisting of 30 lots on 162 acres, located off SR-1520, Old Graham Road, Hadley Township.

5. Request by Windjam 23, LLC for subdivision preliminary design approval of “**The Hamptons, Phases 1, 2, & 3**”, consisting of 89 lots on 183 acres, located off SR-1700, Mt. Gilead Church Road, Baldwin Township.

C. Preliminary and Final Plat Approval:

1. Request by The Parks at Meadowview, LLC for subdivision preliminary and final design approval of **“The Parks at Meadowview, Phase 1B”**, consisting of 72 lots on 110 acres, located off SR-1520, Old Graham Road, Center Township.

~~2. Request by The Legacy at Jordan Lake, LLC for subdivision preliminary and final plat approval of **“The Legacy At Jordan Lake, Phases 2 & 3”**, consisting of 114 lots, on 166 acres, located off Big Woods Road, SR-1714, Williams & New Hope Townships. Note: This item was removed from consent agenda for discussion. See Item IV. B. 3~~

D. Final Plat Approval:

1. Request by L. E. D., LLC for subdivision final plat approval of **“Windham, Phase II”**, consisting of 23 lots on 124 acres, located off SR-1700, North Pea Ridge Road, New Hope 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.

The following names were listed on the sign up sheet:

- Denzil Thorn, 315 Boothe Hill Road, Chapel Hill, NC

Mr. Thorn stated that this big of an agenda is unfair to Planning Board members who are expected to review and make decisions adequately on all the issues; and that it is unfair to the public who are affected by the decisions made by the Planning Board.

- Kevin Flynn, Canopy, Pittsboro, NC

Mr. Flynn had left the meeting. A citizen in the audience stated that Mr. Flynn had concerns regarding the Parker Springs Subdivision request postponed earlier tonight for review next month.

- Tom Marriott, 633 Rock Rest Road, Pittsboro

Mr. Marriott stated that the issue of concern has been removed from consent agenda for discussion.

- Thomas Toms, 382 Valley Lane, Pittsboro, NC

Mr. Toms has left the meeting.

- Dixon Phillips for Tom Marriott and Alice Yeaman, 633 Rock Rest

Mr. Dixon stated that he would be speaking on an item that has now been taken off consent agenda for discussion later in tonight’s meeting.

Chairman McBee explained that subdivisions listed under consent agenda are developments that have previously been granted sketch and/or preliminary approval by the Planning Board and County Commissioners; that rules have been established regarding what the developers have to do; that the Planning

Department staff evaluates this progress; and that items on consent agenda typically have met all requirements to move forward.

IV. B. PRELIMINARY PLAT APPROVAL:

1. Request by Roanoke Investments, LLC on behalf of Chatham Partners, LLC and Polk-Sullivan, LLC for subdivision preliminary design approval of “**The Bluffs, Phase 1**”, consisting of 36 lots on 180 acres, located off SR-1520, Old Graham Road, Hadley Township. *Note: This item was removed from Consent Agenda for discussion.*

Ms. Kost stated concern regarding condition #6 recommended at sketch design review that states::

“Any required environmental monitoring reports shall be provided to the local County offices of the Health Department”.

She referenced letter dated October 16, 2006 from Nicolas P. Robinson (included in tonight’s agenda packets) that lists the status of condition #6 as follows:

“(6) No environmental monitoring reports have been required and we request that this condition be removed for clarity in the future”.

Ms. Kost asked that this be explained.

Ms. Richardson stated that she recalls that there were no environmental monitoring requirements placed on “The Bluffs”; that the attorney is requesting that this condition be removed unless the Board sees fit to require it; and that the condition probably should not have been recommended originally since environmental monitoring reports were not required.

Ms. Kost was concerned that phasing of the development does not meet the watershed requirements. Ms. Richardson explained that the overall project would meet a 5-acre average with no lots being less than 3 acres; that this particular phase does not meet the 5-acre average; but that the entire project would be in compliance with the watershed requirements. Ms. Richardson noted that the Board reviewed the Windfall Subdivision that had this same situation.

Allison Weakley, a biologist and Chatham County resident, distributed an eleven page document entitled, “Review of environmental documents submitted to Chatham County for the Shively Tract, Banner Tract, and The Bluffs, submitted to the Chatham County Planning Board, 6 November 2006, Allison E. Weakley, Biologist”. A copy of this report is on file in the Planning Department. Ms. Weakley stated that the reports from S&EC for all three developments contained flawed methodology, inconsistencies, and inaccuracies that would not withstand competent peer review, or review by State agencies.

Mr. Megginson stated that the Planning Board did not ask for an environmental assessment when “The Bluffs” was done as addressed in staff notes; that most of the property had been clear cut; that the proposed property is not a natural area; that additional comments received tonight would be at the discretion of the

Board; and that this is a subdivision issue and not a zoning issue. Mr. Megginson explained the subdivision process.

Following discussion, it was the decision of the majority of the Board that additional public comments and/or discussion would not be permitted as this time.

Mr. Wilson made a motion; seconded by Mr. Mason to grant approval of the road names *Ridgebrook Drive, Bluffside Court, Hamilton Cove, Blufftonwood Drive* and approval of the modification to the development schedule and approval of "The Bluffs, Phase I" as submitted. The motion passed 5-1-1-1 with Wilson, Mason, Cross, McBee and McCoy voting in favor of the motion; Ms. Kost voting against; Ms. Nettles abstaining; and a recusal from Mr. Eliason.

2. Request by MacGregor Development Company on behalf of Over Jordan, LLC for subdivision preliminary design approval of "**Westfall, Phase 1A, 1B, and 1C**" (formally Booth Mountain), consisting of 94 lots on 160 acres, located off SR-1721, Lystra Road, and SR-1717, Jack Bennett Road, Williams Township.
Note: This item was removed from Consent Agenda for discussion.

Chairman McBee reiterated that at this point in the subdivision process the development has sketch approval; that rules have been set; and that specific questions are welcome if it is something the developer is not doing that has been required.

Discussion followed. Ms. Kost referenced letter dated October 16, 2006 from Nicolas P. Robinson, Bradshaw & Robinson, LLP (included in tonight's agenda packet) that indicates that the applicant is awaiting final approval on the DOT commercial driveway permits. Ms. Kost asked if these permits had been approved. Ms. Richardson stated that staff has received the required permits.

Allison Weakley voiced the following concerns:

Sweet pinesap (*Monotropsis odorata*) – Ms. Weakley referenced condition #7 of the initial conditional use permit that states:

"There shall be no land clearing until the additional plant survey referred to in the S&EC report is performed in the spring. If endangered or threatened species are found on the property, the applicant shall work with the North Carolina Botanical Garden or similar organization to protect and preserve said species".

Ms. Weakley stated that S&EC conducted the rare plant survey during the Summer which is a time of year when Sweet pinesap (*Monotropsis odorata*) is the least likely to be found; that this species only blooms in Winter and early Spring (not in the Summer); and that she asks that the Board require S&EC (or a biologist) to survey for the species in the Spring when it is blooming.

Buffers along Herndon Creek - Ms. Weakley stated that a 200-foot stream buffer should be required for each side of Herndon Creek since this is a significant natural heritage area. Ms. Richardson stated that 50-foot buffers are required but that the developer has voluntarily agreed to do 100-foot buffers along the creek.

Street Lighting – Ms. Weakley stated that the developer has not addressed street lighting; that this is a sensitive area for area sensitive wildlife; and that she would urge the Board to prohibit streetlights to minimize impact on wildlife habitat.

Ms. Richardson referenced condition #12 of the original zoning approval that states:

“According to the application booklet, all street lighting shall comply with the proposed Chatham County Draft Lighting Ordinance to minimize light pollution and light trespass. The development’s covenants shall also require residential lighting to meet the Draft Lighting Ordinance”.

Groundwater Monitoring Well – Ms. Weakley was concerned how the well would be installed without disturbing the 150-foot non-disturb buffer. Mr. Eliason stated that technology allows the ability for minimal impact without cutting down all the trees to install the facility.

Private vs. Public Roads – Ms. Weakley stated that she previously asked (at the conditional use permit submittal) that the amenity center be opened to the public.

Trail Easement from village lots to school site – Ms. Weakley inquired if this had been approved by the Chatham County Board of Education or the Superintendent; and that she would also encourage connectivity to neighboring developments.

Phasing – Ms. Weakley asked what nearby landowners could expect; that there is constant noise daily from heavy machinery; and that the phasing of the project has changed since approval of the conditional use permit.

Ms. Weakley submitted written comments (for the record) entitled, “Westfall [Booth Mountain] Preliminary Plat Request – Phases 1A, 1B, and 1C, Comments for the Chatham County Planning Board and Staff, 6 November 2006, Allison E. Weakley, Biologist”. A copy of Ms. Weakley’s comments is on file in the Planning Department.

Patric Bradshaw, attorney, was present representing the applicant. Mr. Bradshaw addressed various concerns. Regarding the plant study, Mr. Bradshaw stated that S&EC performed surveys of the site and submitted reports; that S&EC recently submitted a revised report; and that upon receiving said report the Planning staff proposed the following condition:

“The applicant shall have additional surveys preformed for the listed species during the time said species is most likely to be identified, prior to ground disturbing activities in the potential habitat area. They are the Carolina Ladle Crayfish, Four-toed Salamander, and Large Witch-alder. A report of said findings shall be provided to the Planning Department and if said species are found the applicant shall consider revisions to the design to lessen the impact on said species. Methods considered shall be reported to the Planning Department prior to ground disturbing activities in the habitat area”.

Mr. Bradshaw proposed a modification to the above underlined language to read as follows:

“The applicant shall work with the North Carolina Botanical Gardens or similar organization to relocate and protect said species”. Mr. Bradshaw noted that this is consistent with the condition listed in the sketch design approval.

David Gainey, an environmental scientist with S&EC, was present representing the applicant. Mr. Gainey stated that the Large Witch-alder is a species that could feasibly be moved if located and re-located to another area on the property; that surveys indicate potential habitat for the *Monotropsis odorata* (Sweet pinesap) on site (but none occurs within the areas of Phase 1); that additional surveys would be conducted in the Spring; and that any current land disturbing activity should not affect any suitable habitat on this property.

Mr. Bradshaw stated that the Large Witch-alder would be added to the list of species in condition #2.

Clyde Harris arrived at this time [7:00 p.m.]

Ms. Weakley stated that she actually found a *Monotropsis odorata* in her yard; that she has done numerous surveys on various plant species; that her husband (who is an expert in various species and all plant species in the southeast) wrote the book on the Southeastern Flora of the United States; that the *Monotropsis Odorata* blooms in winter and early spring; that it lives off nutrients and cannot be transplanted since it would not survive; that the plant is covered by leaf litter and is not a conspicuous plant; that you find the plant by scent (i.e. potent odor of the plant when flowering in early Spring); and that the developer’s survey was performed in June which is a time of year when the Sweet pinesap is least likely to be found.

Board discussion followed regarding the plan for protecting these rare plant species. Patrick Bradshaw stated that the idea of the language in the condition imposed at sketch design was to involve a knowledgeable, reportable third party to come up with a plan for protecting these species. Mr. Eliason noted that Ms. Weakley and her husband are the experts in this field. He asked if there would be some sort of mechanism for Ms. Weakley and her husband to work with the organization of the applicant’s choice. Ms. Weakley pointed out that land disturbing activities have already occurred and that technically the applicant is in violation of their conditional use permit. Mr. Bradshaw and Mr. Gainey disagreed that land-disturbing activities had already occurred in those species habitat areas.

Regarding the proposed trail easement, Mr. Bradshaw stated that the condition recommended by staff states that the easement be shown on the final plat; that the easement is currently shown on the preliminary plat; that sketch approval required that the easement run from the amenity area to the school site; that he does not recall that it was required that the trail be opened to the public; that the sketch design condition does state that prior to installation of the trail there be

consultation and approval by the school system; and that this would be done before the trail is installed.

Discussion followed. Mr. Eliason inquired about possible liability involvement if the trails and amenity center are opened to the public. Mr. Bradshaw stated that any time you have private properties with amenities and you invite the public onto it there are liability issues.

Mr. Eliason made a motion to grant approval of the road names *Herndon Creek Way, Timber Creek Path, Millers Gap Court, Wood Laurel Lane, Farnleigh Drive, Westfall Way, Beech Slope Court, Herndon Ridge Court, Raven Ridge Court, Eagles Watch Lane, Leatherwood Lane, and Lystra Ridge Road* and approval of the request to change the road status in Westfall Crossing, Phase 1B and Westfall Village, Phase 1C from public, state maintained roads to ungated, paved, private roads built to NCDOT standards for Local Residential Subdivision roads, and preliminary plat approval of “**Westfall, Phase 1A, 1B, and 1C**” as submitted and as recommended by staff with the addition of condition #2 with the language revision proposed by Mr. Bradshaw above and noted below.

Discussion followed.

An adjacent landowner (who did not state his name) requested to speak at this time. Chairman McBee stated that he would allow the gentleman to speak but that this process had already occurred and a decision made whether right or wrong. The gentleman stated the following concerns:

- that the Planning Board has informed adjacent landowners that this process has already occurred and that decisions have been made;
- that included in this process were the original specifications as to the treatment of these species;
- that the Planning Board has informed adjacent landowners that they do not have a right to ask the Board to change the rules for this developer since they have already been set; but that the developer requests changes to the specifications under the rules on his behalf;
- that this is a travesty of the Democratic process.

Mr. Eliason explained that the reason he is proposing the above motion is to facilitate the protection of these two plant species [Large Witch-alder and *Monotropis Odorata* (Sweet pinesap)].

Ms. Weakley stated that she would further ask that the report submitted regarding the results of the surveys be peer reviewed; that it is her professional opinion that some of the reports that S&EC has done recently would not stand up to peer review; and that she would volunteer to be this peer review at the request of the Board.

Mr. Eliason restated his above motion and added a change (condition #2) to and substitution of, from “consider revisions to the design to lessen the impact on said species”; to, “work with the North Carolina Botanical Gardens or similar organization to relocate and/or protect said species”. He noted that this is stronger, more protective language than previously proposed and that he does

not think the Board is asking to change something that was not discussed. Mr. Wilson seconded the motion and the motion passed 8-0-1 with all Board members present voting in favor of the motion except Ms. Kost who abstained.

The two (2) conditions are as follows:

1. Staff recommends the following be added or changed on the final plat:
 - Road name "Beach Slope Court" be changed to "Beech Slope Court"
 - Use of area shown between Lots 112 and 113 be labeled.
2. The applicant shall have additional surveys preformed for the listed species during the time said species is most likely to be identified, prior to ground disturbing activities in the potential habitat area. They are the Carolina Ladle Crayfish, Four-Toed Salamander, and Large Witch-alder and Sweet Pine Sap. A report of said findings shall be provided to the Planning Department and if said species are found the applicant shall work with the North Carolina Botanical Gardens or similar organization to relocate and/or protect said species. Methods considered shall be reported to the Planning Department prior to ground disturbing activities in the habitat area.
3. PRELIMINARY and FINAL PLAT APPROVAL:
Request by The Legacy at Jordan Lake, LLC for subdivision preliminary and final plat approval of "**The Legacy At Jordan Lake, Phases 2 & 3**", consisting of 114 lots, on 166 acres, located off Big Woods Road, SR-1714, Williams & New Hope Townships. *Note: This item was removed from Consent Agenda for discussion.*

Ms. Kost stated that some of her questions have already been answered; that this subdivision was initially approved approximately three years ago and the information was not found on the website including the environmental assessment; that she cannot read the notes on the survey map; and that she is not comfortable voting on a request that she cannot actually review.

There was no discussion among the Board. Mr. Wilson made a motion; seconded by Mr. Mason to grant approval of the road names *Covered Bridge Trail, Timber Crest Drive, High Woods Ridge, and North Crest Circle* and to grant preliminary and final approval of The Legacy At Jordan Lake, Phases Two and Three as submitted and as recommended by staff with the following three (3) conditions:

1. The plat shall not be recorded until the county attorney has approved the financial guarantee.
2. The Mylar copy of the final plat shall show 20-foot wide public utility easements to the McLean Tract between Lots 130 and 129, the Harris tract (in a location best determined by Chatham County Public Works and the project engineer) and to The Preserve at Jordan Lake along the boundary of Lot 125.
3. Staff recommends that the stub out for an emergency road to the Preserve boundary between Lots 125 and 126 be shown on the mylar copy of the final

plat and built and maintained as a graveled, all weather access to the Preserve boundary.

The motion passed 7-0-1-1 with Wilson, Mason, McBee, Cross, Harris, McCoy and Nettles voting in favor of the motion; and Kost abstained; and Eliason recused.

V. SKETCH DESIGN APPROVAL:

A. Request by J & B Partners, LLC for subdivision sketch design approval of “**Bingham Ridge, Phase II**”, consisting of 15 lots on 26 acres, located off SR-1536, Lamont Norwood Road, Baldwin Township.

Ms. Richardson reviewed the agenda notes for this request. She noted that the developer was present.

No adjacent landowners spoke.

There was no discussion among the Board. Mr. McCoy made a motion; seconded by Ms. Cross to grant sketch design approval of the request as submitted and as recommended by staff with the following condition:

1. The preliminary and final plats shall show lots numbered consecutive with Phase 1.

The motion passed unanimously.

B. Request by RLA Development Company, LLC on behalf of Chatham Land & Timber for subdivision sketch design approval of “**Parker Springs Subdivision**”, consisting of 50 lots on 87 acres, located off SR-1700, Mt. Gilead Road, New Hope and Williams Townships.

Chairman McBee stated that this request was removed from tonight’s agenda (as noted earlier tonight in Section II, “Approval of Agenda”) for review during next month’s Planning Board meeting.

C. Request by Community Properties, Inc. for subdivision sketch design approval of “**Shively, # 2**”, consisting of four (4) lots, on 22 acres, located off SR-1520, Old Graham Road, Hadley Township and a **revision to “Shivley, # 1”**.

Ms. Richard reviewed the agenda notes for this request. She noted that the developer was present and some adjacent landowners.

The following adjacent landowners spoke:

- Alice Yeaman, 633 Rock Rest Road, Pittsboro, NC

Ms. Yeaman stated that some of the information submitted is either incorrect or incomplete; that the “Cultural Resource Reconnaissance Survey” dated April 2006, states that there are no historical structures on this site; but that lot #13 is a fairly visible site where people in the past cut mud stones out of the granite

rocks. Ms. Yeaman circulated pictures showing some of the drill markings on the rocks. She stated that there are unfinished millstones lying around on the ground; that there is a holly tree growing over one of the stones; that by the size of the holly tree it is evident how long this site has been abandoned; that there is a chance other sites were missed in the survey since this site was overlooked; and that she would ask that an environmental impact assessment be done since there are rare plant species on this property.

- Dixon Phillips, attorney from Chapel Hill, was present representing Tom Marriott, 633 Rock Rest Road, Pittsboro, NC

Mr. Phillips stated that his comments relate to both Shively and Banner subdivision requests; that the applications note that preliminary plat would not be submitted for five (5) years from now; that the ordinance states that sketch design is only good for six (6) months; that there is no legitimate purpose or reason to approve sketch at this time; that the six (6) month limit would not apply if "The Bluffs", "Shively" and "Banner" subdivisions are combined as one phase development (i.e. over the 50 lot minimum); that scheduling needs to be established with initial application; that this schedule was not established with Shively #1; and that he requests that the Board order an environmental impact assessment as the ordinance authorizes (also for "The Bluffs" subdivision).

- David Peterson, 1942 Rock Rest Road, Pittsboro, NC 27312

Mr. Peterson stated that he lives south of "The Banner" tract. Mr. Peterson distributed copies of his comments that are on file in the Planning Department.

- Allison Weakley, a biologist who lives at 311 Boothe Hill Road, Chapel Hill, NC spoke representing adjacent landowners, Alice Yeaman and Tom Marriott.

Ms. Weakley submitted her written comments for the record entitled, "Review of Environmental Documents submitted To Chatham County for the Shively Tract, Banner Tract, and The Bluffs, dated 6 November 2006". (Note: This eleven-page document is on file in the Planning Department.) She stated that her written comments outline various things missed by S&EC reports; and that she asks that the Board review her comments and request an environmental impact assessment that is peer reviewed.

No additional landowners spoke at this time.

Jennifer Andrews, attorney, was present representing the applicant. Ms. Andrews stated that this application is for four (4) lots; that the revision request is to change the cul-de-sac to a small roadway extension into the edge of the Banner property; that all requirements for sketch design have been provided; that much of the information regarding threatening endangered species (reports and reconnaissance survey) was information that was supplemental to the sketch design application; that this application meets the minimum requirements for sketch design approval; that additional surveying was done on lot #13 and the site did not appear to have any archeological significance; and that an environmental impact assessment for such a subdivision would be an overkill.

Board discussion followed. Ms. Kost was inquisitive as to why sketch design approval was submitted at this time since preliminary plat application would not be submitted until 2011.

Ms. Andrews stated that the development schedule is perfectly acceptable and allowable under the ordinance; that these projects total 56 lots and are subject to RA-5 zoning; that during "The Bluffs" application review Mr. Marriott stated that this zoning was what he (and others) had fought for a few years ago; that the development schedule allows a developer to phase it in relative to infrastructure; that these properties would have water lines and wastewater treatment facilities from Chapel Ridge; that roads through The Bluffs, Shively and Banner are necessary; and that it makes sense to have these things done in an appropriate timeframe.

Mark Ashness, civil engineer with the CE Group, Inc., was present representing the applicant. Mr. Ashness addressed phasing of roads.

Mr. McCoy made a motion; seconded by Mr. Mason to grant sketch design approval of "**Shively # 2 and a revision to "Shivley, # 1"** (with no environmental impact assessment requested), as submitted and as recommended by staff with the following condition:

1. The water hazard buffer along the stream shall be shown as a 100-foot wide buffer along both sides of the stream on the preliminary and final plats with useable area of Lot # 13 shown correctly.

Discussion followed. A gentleman in the audience (who did not state his name) voiced concern that these subdivisions (The Bluffs, Shively, and Banner) should be addressed together and not separately in order for all adjacent landowners to speak during the same review. Mr. Megginson explained that the subdivisions were submitted separately. The motion passed 7-1-1 with McCoy, Mason, McBee, Wilson, Cross, Harris and Nettles voting in favor of the motion; and Kost voting against; and Eliason recused.

D. Request by Polk Sullivan, LLC on behalf of Worth Durham Banner for subdivision sketch design approval of "**Banner Tract, (Shively Phase 3)**", consisting of 40 lots on 234 acres, located off SR-1520, Old Graham Road, Hadley Township.

Ms. Richardson reviewed the agenda notes for this request. She stated that the developer and some adjacent landowners were present.

The following adjacent landowners spoke:

- Jack Brooks, 1138 Rock Rest Road, Pittsboro, NC

Mr. Brooks cited concern regarding the marshy areas along the river lands. He stated that the water flow drains into Dry Creek that runs into the Haw River creating added sediment; and that the existing culvert on his property would collect additional dirt and debris.

- Judith Peterson, 1942 Rock Rest Road, Pittsboro, NC

Ms. Peterson stated that she and her husband own approximately 92 acres bordering Shively #3 (Banner tract); that there is a 60 foot easement though the Banner land to their property; that the project (now known as Shively, Phases 1, 2, and 3) was initially approved as a development of 12 lots; that tonight the development has changed to a more greater size (i.e. more than 50 lots allowing extension for development scheduling); that additional development adds increasing environmental pressure on remaining lands of larger tracts (greater than 5 acres); that from Dry Creek on the south to the bend of the Haw River at the north end of the Banner land and west to Old Graham Road, there are over 1400 acres that had 19 houses but will now have ten times this number on smaller parcels of land; that the environmental impact on plant and animal life as well as humans is a concern; that well water is a concern; and that there should not be a rush to grant sketch design approval without an environmental impact assessment. Ms. Peterson asked that the Planning Board look at and evaluate very carefully the affects of these hundreds of acres of development before granting sketch design approval.

- Allison Weakley spoke representing a group of adjacent landowners.

Ms. Weakley stated that the report from S&EC did not acknowledge the Cape Fear shiner population that is approximately 120 meters off shore of this tract; that the Fish and Wildlife Service are very concerned about this species; that she submitted her written comments for the record earlier tonight on the inadequacy of the S&EC reports; and that she recommends an environmental impact assessment for a number of Federally and State listed plant and animal species.

No additional landowners spoke at this time.

Jennifer Andrews, attorney, was present representing the applicant. Ms. Andrews addressed some of the above concerns. She stated that lands along the river would have 100 foot setbacks; that the subdivision lots are not high density; that lots meet the RA-5 zoning requirement; that the existing easement would continue to serve Pace's Mill and would be improved for use and enjoyment; that if there were no species found in season there is nothing else to be done; that staff has requested survey for the habitat not in season; that landowners in the Rock Rest Community fought diligently to insure that these lands would be zoned RA-5; that this request is for a straight zoned RA-5 development; and that the application is complete and meets the zoning requirements.

Discussion followed. Ms. Kost stated that the plat map was difficult to read; and that any time a citizen asks for an environmental impact assessment it is not a ridiculous request, especially in an environmentally sensitive area.

Andrew Downs, Haw River Project Coordinator, Environmental Studies, asked to speak at this time on behalf of the Haw River Trail Government Agency Partnership. Chairman McBee asked Mr. Megginson to advise the Board on this association and the possible connection to this request. Mr. Megginson explained that the Planning Department works with various organizations in reviewing subdivision applications; that staff has a development team meeting each month to review subdivision and zoning submittals; that the Commission

(and other agencies, i.e. Water Department, Environmental Health, Historic Association & etc.) gives recommendations on the various applications; and that the memorandum of understanding between Chatham County and other counties and organizations is to try to preserve areas along the Haw River. Mr. Downs stated that he would like to provide himself as a contact and resource person for the project's development team.

With regards to the S&EC survey, Mr. Megginson explained that the recommendation from staff regarding plant and animal surveys, do not include the Cape Fear shiner; that the reason is because the habitat is recognized and the State already has information from surveys done in 2000 and 2004; that there is no benefit for the applicant to survey the river (upstream, downstream, or even out from the property); and that the applicant is required to follow erosion control requirements.

Mr. Mason made a motion; seconded by Mr. Wilson to grant sketch design approval of "The Banner Tract" as submitted and as recommended by staff, with the following condition:

1. That field surveys be conducted for the following plants and animals during the times when they are most likely to be identified and if found the applicant is to consider modification of the preliminary plans to minimize adverse impacts to the population: Harperella, Buttercup Phacelia, Carolina Ladle Crayfish, Four-Toed Salamander, and Sweet Pinesap. During preliminary review the applicant is to report the findings of the surveys and what plan revisions were considered or implemented, if any.

There was no discussion on the motion and the motion passed 7-1-1 with Mason, Wilson, McBee, Cross, Harris, Nettles and McCoy voting in favor of the motion; and Kost voting against; and Eliason recused.

5-Minute Break [8:20 p.m.]

VI. ZONING AND ORDINANCE AMENDMENTS: - Items from July 17, 2006 Public Hearing:

- A. 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.
- B. 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 Baycorp Development requests (items A. and B.) listed above have been withdrawn by the applicant.

Items from September 18, 2006 Public Hearing:

- C. 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.

Ms. Birchett reviewed the agenda notes for this request. She stated that the Planning Board approved Mr. Farrell's conditional use district request for rezoning during last month's Planning Board meeting; that this permit request is back before the Board for the applicant to better define the proposed wastewater treatment system; that the conditional use permit request is a quasi-judicial hearing and further testimony is not allowed; that a specific question for the applicant or representative that was not clear in the application could be addressed; that staff thinks that the five findings have been met and an approval is recommended; that Mr. Hal House would be presenting a Power Point presentation later in tonight's meeting regarding the proposed wastewater treatment facility; that the applicant agrees with staff recommendation that storm water measures shall be designed and installed to detain the two (2) year twenty-four (24) hour storm; that staff has requested that the applicant install some type of permanent measure (such as a raised concrete island) in an effort to discourage traffic from entering the wrong drive; and that the request would need to go back to public hearing if the Board thinks that there would be more land disturbance than was initially proposed.

Dr. Hal House, engineer and water quality specialist, was present representing the applicant. Dr. House presented a Power Point presentation about the proposed wastewater treatment system. He stated that his company specializes in environmentally sensitive installation of wastewater systems; and that his presentation shows an example project similar to Mr. Farrell's project in terms of low impact design (minimal removal of trees). (Note: A printed copy of the Power Point presentation entitled, "Wastewater Management System Development, Farrell / Craft Property", is on file in the Planning Department and a digital version is on the County website, under Planning.)

Board discussion followed. Mr. Eliason asked that the rectangle area noted on the plat map is left as green space; that some sort of safety protection for citizens (especially children) be installed around the pond area; and that the pond area for the wastewater treatment facility be labeled on the plat map.

Mr. House addressed some specifics as follows:

- ✓ depth of suitable soils
- ✓ system monitoring and maintenance
- ✓ storage tanks / ponds
- ✓ sand filtration
- ✓ vegetative berms
- ✓ changes since initial public hearing
- ✓ safety around pond areas

Mr. House noted two concerns of the Board that have been satisfied as follows:

- there be on site management of wastewater, and

- neighbors would not be visually (or any other way) impacted with the wastewater treatment system.

He stated that at the request of the Board a barrier could be put around the pond area for safety and liability concerns.

Mr. Wilson made a motion; seconded by Mr. McCoy that the five (5) findings be made and the request be approved as submitted and as recommended by staff with two additional conditions regarding the storage pond as referenced above and noted below as conditions #13 and #14. There was no discussion on the motion and the motion passed unanimously.

The fourteen (14) conditions are as follows:

- 1) A fifty-foot (50') opaque, vegetative buffer shall remain along the northern and eastern property lines. Should the existing vegetative buffer not provide a year round opaque screening, plantings as instructed by the Appearance Commission shall be installed at the next optimal planting season and maintained.
- 2) All parking areas shall conform to the parking requirements as set forth in the Chatham County Zoning Ordinance.
- 3) Two monument style signs are allowed, one (1) per each property, as shown on the site plan. Signage within the development shall conform to the B-1 Business signage requirements of the Chatham County Zoning Ordinance.
- 4) Landscaping shall be installed as instructed by the Appearance Commission and remain outside of the NCDOT site triangles. A list shall be provided to the Planning Department detailing the names of the plants used in specific areas as outlined on the site plan and as directed by the Appearance Commission.
- 5) All lighting shall conform to the Chatham County "Draft" Lighting Ordinance.
- 6) A re-evaluation of the storm water detention ponds shall be conducted. There are only two (2) located on the site plan for the entire project. Storm water measures shall be designed and installed to detain the two (2) year twenty-four (24) hour storm.
- 7) The drive farthest north of the intersection of Farrington Rd. and McGhee Rd. on Farrington Rd. is to be an "exit only" drive. It is requested of the applicant to install some type of permanent measure such as a raised concrete island to discourage traffic from entering this drive. This drive shall also be extended to allow for emergency vehicles to continue straight through to the rear of the storage facility to allow for a second entry point in case of emergency at the storage facility. The drive closest to the intersection of Farrington Rd. and McGhee Rd. shall be an "entrance only" drive and the same recommendation is made of the applicant to assist in ensuring traffic flows accordingly as designed. The turn around radius between storage facilities shall not be less than fifty-five feet (55'). It is the applicant's choice whether to install a

security gate for access by emergency personnel only into the storage facility area from the northern most drive off of Farrington Rd.

- 8) There shall remain a fifty-foot (50'), undisturbed, vegetative buffer on each side of the creek located on the lower tract for the storage facility.
 - 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) A building permit shall be obtained within 24 months from the date of approval or the expiration date for appeals or the date of the court's decision, whichever is later, and shall remain valid at all times or the conditional use permit will be void.
 - 11) Parking requirements for the request shall be as calculated in the Zoning Ordinance under Section 12.
 - 12) Off-site improvements required by NCDOT or any other agency shall be constructed at no cost to Chatham County.
 - 13) The storage pond area for the wastewater system shall be labeled on the site plan.
 - 14) Should the storage pond for the wastewater system be located in an area readily accessible to the public, precautions shall be put in place to deter access by humans. These measures may include but are not limited to berms, plantings, and/or fencing.
- D. 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.

Ms. Birchett reviewed the agenda notes for this request. She stated that the issue was presented for public hearing September 19, 2006; that any further testimony, especially in connection with the permit request, is prohibited at this time; that direct questions of the applicant or representative should be done with discretion; and that this request was not presented last month due to the heavy work load of staff.

Patrick Bradshaw, attorney, was present representing the applicant.

Ms. Kost stated that this is a major project and the Board has already been meeting tonight for three and a half hours. Ms. Kost made a motion that this issue be tabled until next month's Planning Board meeting. The motion died for lack of a second.

Nat Smith, attorney, 102 Misty Pines Place, Carrboro, NC stated that the following landowners, among others, object to the Board hearing this issue tonight:

- Bob and Beverly Murdock, David and Susan Keesee, Debra Eagle, Elaine Foster, Michael Schmedlen, and Betsy Merki.

It was the decision of the majority of the Board to continue discussion of the application.

Ms. Birchett explained the various commercial sites currently existing (or have existed) in the surrounding area and the various commercial uses that have been previously located on this parcel.

Nat Smith stated that he represents Bob and Beverly Murdock, David and Susan Keesee, Debra Eagle, Elaine Foster, Michael Schmedlen, and Betsy Merki; that they object to the Planning Board reviewing this request tonight on the following two (2) bases:

- that there was never a properly advertised public hearing (i.e. 19 vs. 30 acres), and
- until the pending lawsuit against the county is resolved.

Board discussion followed. Ms. Kost reiterated that Board members have not been given ample time to study this issue very carefully; that new information has been provided; and that it is doing a complete disservice to the citizens of this County to look at a major project like this one so hastily.

Mr. Mason made a motion to approve the request as submitted.

Allison Weakley stated that she had additional material for submittal regarding the driveway permit. It was the decision of the majority of the Board that this additional material could not be received and / or included in the applicant's file since it was received after the public hearing.

Mr. Mason reiterated his motion to grant approval of the request as submitted and as recommended by staff. Mr. Wilson seconded the motion. Discussion followed. Ms. Kost asked the difference between the 19 acres and the 30 acres and what the results were of the Board of Adjustment meeting earlier today.

Mr. Megginson stated that the request (and staff recommendation) is for 29.4 acres be rezoned for a conditional use business (B-1) district and that the remaining 33.9 acres be residential-agricultural (RA-40); and that the Board of Adjustment agreed that staff interpretation of the map was correct.

There was no further discussion and the motion past 8-1-0 with all Board members present voting in favor of the motion except Ms. Kost who voted against.

- E. 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.

Ms. Birchett reviewed the agenda notes for this request. She stated that a revised site plan was included in tonight's agenda packets and was created because of citizen concern received during the recent public hearing. Ms. Birchett explained the various changes as noted on the revised plat map. She reviewed the five (5) required findings and the conditions recommended by staff. Ms. Birchett reminded the Board that this conditional use permit request is a quasi-judicial hearing and further testimony is not allowed; but that a specific question for the applicant or their representative that was not clear in the application could be addressed. She stated that a revised traffic analysis has been submitted and has been posted on the County website.

Nat Smith, attorney, stated (for the record) objection for the Board hearing this request tonight on the same basis as noted earlier tonight.

Patrick Bradshaw, attorney, was present representing the applicant. Mr. Bradshaw addressed the driveway permit. He stated that permit applications are complete (filed by Ramey Kemp) and have been filed with NCDOT. NCDOT has not yet issued the permit.

Mr. Eliason asked if the size of the wastewater areas were calculated by benefit of the soil surveys.

Mark Ashness, civil engineer with the CE Group, Inc., was present representing the applicant. Mr. Ashness stated that S&EC did full soils classifications on this property and followed up later (prior to the public hearing) with further extensive testing regarding infiltration rate; and that it is possible that some of the fields would not be utilized at all.

Discussion followed. Mr. Eliason noted that 13.7 acres out of 33 acres are designated for spray areas. Ms. Kost stated that during the September public hearing Mr. House testified about the impact on storm water runoff and the creek and private driveway in the back of this property. She noted that his expert testimony (and pictures to document) alleged that in a heavy rain the driveway would be washed out. Mr. Ashness stated that he could not comment either way as to whether the driveway would be washed out but that typically a private driveway is not designed for a significant storm event. Ms. Kost asked where the area for the pond is proposed since the topography is very steep at the end of the property. Mr. Ashness stated that the plan shows three (3) ponds; that the approach is to break the flow out into the natural areas that it falls; that having multiple ponds released at different times is one strategy to reduce the peak flow; and that this site is less than 34% impervious coverage (just over one-third of the property). Ms. Kost asked if the proposed drip fields would also have storage ponds. Mr. Ashness stated that storage ponds for the drip fields would depend on the final approach and storage areas are required if the pond is located directly behind the facility (on top of ridge as marked on site plan). Mr. Ashness used the overview map to show the proposed landscape berms and /

or buffering. Ms. Kost stated that she recalled some concerns that were raised during the public hearing regarding the layout of the proposed uses. Mr. Eliason stated that there was much discussion about whether or not there would be a large convenience store with multiple gas pumps and how runoff would be handled. Mr. Ashness stated that there is a 75 foot landscape strip along the frontage of U.S. 15-501; and that the proposed out-parcels (probably three) are very significant in size and would have no direct access to U.S. 15-501. Ms. Kost was concerned that there are no restrictions on uses allowed. Mr. Bradshaw stated that given the lot size, impervious surface area, and buffering it is unlikely that there would be offensive uses.

Ms. Kost reiterated that she has not been given adequate time to review and evaluate this request. She stated that there has been new information submitted and that getting the agenda packets two (2) days late was a hampering.

Mr. Wilson made a motion; seconded by Mr. Mason to grant approval of the request as submitted and as recommended by staff with the following nine (9) conditions:

- 1) Entrance signs are limited to two (2) as indicated on the site plan and are to be no larger than 150 square feet. All other signage, interior to the development, shall conform to the Chatham County Zoning Ordinance, Section 13.7 Signs Permitted in the B-1 Business District.
- 2) The wastewater facility shall be owned and operated by a public utility.
- 3) All lighting shall conform to the Chatham County "Draft" Lighting Ordinance guidelines.
- 4) The landscaping plan shall be revised to reflect the recommendations of the Appearance Commission. Plantings shall be installed at the next optimal planting season following grading and clearing activities.
- 5) All required perimeter landscaping and buffering shall be installed prior to the issuance of certificate of occupancy for the first structure.
- 6) Any dumpster locations shall be screened in an "opaque" fashion away from public view.
- 7) 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.
- 8) Off-site improvements required by NCDOT or any other agency shall be constructed at no cost to Chatham County.
- 9) The first building permit shall be issued within 24 months from the date of this permit's approval, expiration of the appeal period or any court decision, whichever is later, or this permit will automatically expire and become void.

Discussion on the motion followed. Mr. Eliason stated that he attended the public hearing; that he felt that he understood the project; and that there have not been major changes to the original site plan. Mr. McCoy stated that he received his packet in ample time; and that three (3) days is adequate time for review. Mr. Mason and Ms. Cross noted that the developer is working with adjacent property owners and trying to accommodate their requests.

A lady (who did not state her name) voiced concerns regarding buffering, noise, traffic, wells, and runoff. She stated that the neighborhood is currently very quiet; and that she and the neighbors think that this request has been rushed through the zoning process.

Vote on motion:

The motion passed 8-1-0 with all Board members present voting in favor of the motion except Ms. Kost who voted against.

Items for November 20, 2006 Public Hearing:

- F. Public Hearing request by Hardip S. Dhillon to rezone approximately 4 acres off Old US 1 and New US 1, New Hill, Cape Fear Township from RA-40 to B-1 to be combined with his current B-1 property.
- G. Public Hearing request by Greg Isenhour for a revision to an existing CU-PUD Permit for Cole Place, located off Plaza Dr. (private), Williams Township to add an additional 16 town homes to the existing 60 town homes already constructed.
- H. Public hearing to receive citizen input on proposed text amendments to the Chatham County Flood Damage Prevention Ordinance to comply with the minimum criteria of the National Flood Insurance Program. The amendments include the incorporation of revised Flood Insurance Rate Maps (FIRMs) for Chatham County that will become effective on February 2, 2007.

Mr. Megginson stated that the above items (F., G., and H.) are scheduled for public hearing November 20, 2006; that item H. is regarding FEMA required changes to the Flood Ordinance; and that 2400 notices of the public hearing were mailed informing landowners that a portion of their property is located within an area designated as a special flood hazard area.

VII. OLD BUSINESS:

No reports were submitted.

VIII. NEW BUSINESS:

A. Planning Director's Report

No reports were submitted.

B. Planning Board Member's Report

1. *Report from Charles Eliason on Piedmont Conservation Council meeting*

Mr. Eliason stated that he recently attended his first meeting of the Piedmont Conservation Council; that it is a positive program with various surrounding counties participating; that the purpose of the Council is to look at projects assisting communities; that one of the projects presented was the revitalization of the tennis courts and basketball park here in Pittsboro; that there should be four (4) representatives from Chatham County (one from each of the following: Planning Board, at-large member, Board of Commissioners; and Soil and Water Conservation); that Chatham County would be dropped from the Council if we do not have representatives attending meetings; that each representative should have an alternate; and that the Council is starting to take into consideration land use plans because continuity in the community is a huge aspect.

2. *2007 Planning Board Meeting Dates – to prepare Planning Board Calendar*

Mr. Megginson stated that generally the Board looks at various dates, i.e. holidays, elections, and etc. and make revisions for meeting dates before a calendar is presented. After discussion, it was the decision of the majority of the Board that staff present a draft calendar for review during next month's Planning Board meeting; and that in the meantime the usual January dates would be used.

Ms. Kost stated that she is aware of the tremendous pressure that staff is under with the heavy work load; that she asks that if a meeting is moved up to Monday that the packets go out on Wednesday; and that she would like staff to consider, when preparing the agenda, putting in a link to access supplemental information.

IX. ADJOURNMENT: There being no further business, the meeting adjourned at 10:20 p.m.

Mark McBee, Chair

Date

Attest:

Kay Everage, Secretary to the Board

Date