

CHATHAM COUNTY PLANNING BOARD
MINUTES
December 5, 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
Evelyn Cross
Charles Eliason
Clyde Harris
Sally Kost
Martin Mason
Paul McCoy
Mary Nettles
Chris Walker

Absent:

Cecil Wilson, Vice-Chair

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 6:05 p.m.

- II. APPROVAL OF AGENDA: Approval of agenda was included with consideration of approval of consent agenda below.

- III. CONSENT AGENDA: Mr. McBee stated that Governors Village Town Homes, Phase Three (Item C.) has requested a road name change and should be removed from consent agenda for discussion. Ms. Cross made a motion; seconded by Mr. Harris to approve the agenda / consent agenda as submitted with removal of Governors Village Town Homes, Phase Three from consent agenda for discussion. There was no discussion on the motion and the motion passed unanimously. (8 Board members)
 - A. Minutes:
Consideration of a request for approval of Board minutes for November 6, 2006 Planning Board meeting.

 - B. Preliminary Plat Approval:
Request by Dan Sullivan for subdivision preliminary approval of “**Pennington North Subdivision, Phase I, Lots 1, 2, 16, 17, and 18**”, consisting of five (5) lots located off SR-1716, Big Woods Road, New Hope Township.

- ~~C. Preliminary and Final Plat Approval:
Request by Governors Village Commercial, LLC for subdivision preliminary and final approval of “**Governors Village Townhomes, Phase Three**”, consisting of 14 blocks to be further subdivided into 76 residential townhome lots, located off S. R. 1847, Moring Drive Extension, Williams Township. This item was removed from consent agenda for discussion. (See Section IV. B. below)~~

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 and Final Plat Approval:

Request by Governors Village Commercial, LLC for subdivision preliminary and final approval of “**Governors Village Town homes, Phase Three**”, consisting of 14 blocks to be further subdivided into 76 residential town home lots, located off S. R. 1847, Moring Drive Extension, Williams Township.

Ms. Richardson stated that the only revision to staff notes is a change in the proposed road name “*Governors Lake Drive*” to “*Christopher Drive*” due to a name duplication; and that the road name “*Christopher Drive*” has been reviewed and approved by Chatham County Emergency Services. Mr. Mason made a motion, seconded by Ms. Cross to grant approval of the road names *Christopher Drive, Daughtridg Drive, Philpott Drive, and Perdue Drive*; and to grant preliminary and final plat approval of “Governors Village Town Homes, Phase Three” as submitted and as recommended by staff with the following condition:

1. Language changes as specified in attachment # 7 shall be added to the Mylar copy of the final plat.

The motion passed unanimously. (8 Board members)

V. SKETCH DESIGN APPROVAL:

- A. 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.

Ms. Richardson reviewed the agenda notes for this request. She noted that this application was pulled from last month’s agenda because of insufficient notice to some adjacent landowners.

Charles Eliason arrived at this time (6:15)

The following adjacent landowners spoke:

- Angela Flynn, 258 Canopy Dr., Monterrane Subdivision (lot size just under 5 acres)

Ms. Flynn stated that she is not opposed to development but that development can be done wisely and with sensitivity to the neighbors and Mother Nature. Some of Ms. Flynn's concerns were as follows:

- privacy, i.e. greater buffering in some areas
- keeping the rural tranquility of Chatham County, i.e. protect the County's rural nature as a valuable commodity
- existing RA-40 zoning has remained unchanged for over 30 years
- density
- impact on land, waters and wetlands, i.e. proposed crossing of Parkers Creek and proposed seven (7) homes to be placed directly on Parkers Creek
- runoff, and
- off site septic fields

Ms. Flynn asked that the number of proposed lots be reduced and that an environmental impact assessment be submitted.

- Jason and Gloria Garver, Lot 26, Monterrane Subdivision (lot size 8-1/2 acres)

Mr. Garver stated that he and his wife plan to build on this lot in the next few years; that he did not expect this kind of density; that he is also concerned with privacy, septic fields and soils. Mr. Garver noted that some housing sites could be placed on the opposite side of the ridge to improve privacy. Ms. Garver referenced their letter to the Planning staff dated December 5, 2006 that lists various concerns. (A copy of this letter is on file in the Planning Department.) She reiterated concerns regarding density, the need for an environmental impact study, natural trails, and buffering. Ms. Garver noted that their lot is down hill from the proposed development and that this poses some additional concerns.

- Timothy Davis, Lot #4, Monterrane Subdivision (2.2 acres)

Mr. Davis stated that he agrees with the above concerns. He added that his main issues are, 1.) density, 2.) numerous septic fields; and 3.) environment and esthetics.

- Gloria Garver

Ms. Garver stated that, as part of the Monterrane development and in keeping with the respect and appreciation of the environment, there is a nature trail along the edge of Monterrane subdivision. She noted concerns regarding preserving the trail and its buffering, light and noise pollution, and septic fields.

No additional landowners spoke at this time.

Gray Styers, attorney, was present representing the applicant. Mr. Styers stated that also present tonight were the following members of the development team:

- Rusty Amons, (an environmental sensitive developer);
- Keith Roberts, (did the development design); and
- Scott Mitchell, (a professional engineer and soil scientist).

Mr. Styers addressed some of the above concerns. He stated that the extension of county water lines to this property could be beneficial to the Monterrane subdivision, i.e. issues with some wells in Monterrane; that the applicant proposes 100 foot buffers along either side of Parkers Creek to provide protection to the creek over and above what is required; that there would be a lot of separation between lots; that this is not a zoning request; that the density issue is determined by the zoning classification; that RA-40 zoning has existed for over thirty years; that the request meets the subdivision requirements; that the applicant recently met with adjoining landowners; and that some modifications were made after said meeting (i.e. undisturbed buffer, cul-de-sac and some lots redesigned). Mr. Styers used the large overview map to show the areas to be used if off-site septic fields are needed. He noted that at this stage in the subdivision process (sketch plan) the application meets all requirements and should be allowed to go forward.

Discussion followed. Regarding access to the northern partials, Ms. Kost asked if there was any consideration by the applicant to having access from Monterrane subdivision. Mr. Styers stated that given the connectivity to the Corn property and Cooper tract he is not aware that there is any consideration of access from Monterrane. Mr. Eliason asked if the roads in Monterrane are public or private. Ms. Richardson stated that most of the roads in Monterrane are public but that the road becomes private in the back section where the zoning changes from RA-40 to RA-5. Regarding plans to control runoff especially along the steep areas going down to Parkers Creek, Mr. Styers stated that 100 foot undisturbed buffers are currently proposed; that plans are to build houses in this area at the top of the slope; and that soil and erosion permits would be done before preliminary plat submittal. Other potential permitting was discussed, i.e. wetlands. Ms. Kost noted that the Monterrane subdivision could not find suitable soils for smaller lot sizes.

Scott Mitchell, Mitchell Environmental, P.A., was present representing the applicant. Mr. Mitchell stated that one of the main reasons Monterrane has larger lot sizes is because certain developers are willing to look at septic system options available to use soils that are not suitable for some of the systems that may be used at Monterrane; and that he has looked at the entire property as far as soil suitability for septic systems but has not yet done a detailed evaluation on wetlands or streams on the property.

Angela Flynn stated that most all Monterrane residents are on county water with conventional septic systems; that all property lines have 75 foot buffers; that the nature trail is an easement and is part of this 75 feet (not in addition to); that presumably repair fields will eventually be used; that only three (3) out of 37 lots in Monterrane have off-site septic fields; and that the use of off-site septic fields is just a way to get around the zoning.

Discussion followed. Mr. Walker stated that the 100 foot buffers are commendable but do not necessarily mean it is the best plan; that 100 foot buffers do not indicate how much of an environmental impact there possibly could be; and that the only real way to know this is to have an assessment.

Motion to table:

Mr. Walker made a motion to table the request until an environmental impact assessment could be made. Ms. Kost seconded the motion. Ms. Kost noted that her reasoning for seconding the motion is because of the area around Parkers Creek, the very extreme topography, and the way the creek is situated on the property. Discussion followed regarding an environmental impact assessment and building site locations. Mr. Styers asked that the minutes reflect that the building sites would be as presented, i.e. close to roadway as shown on preliminary plat. Ms. Richardson stated that since this is not a zoning request the Board could not make the requirement but that the applicant could volunteer.

The motion failed 2-7 with Walker and Kost voting in favor of the motion; and all other Board members present voting against.

Motion to approve as submitted:

Mr. Mason made a motion; seconded by Mr. McCoy to grant sketch design approval of "Parker Springs Subdivision" as submitted and as recommended by staff, with the following condition:

1. The park areas and off-site septic area within Monterrane Subdivision along the common boundary with the subject property shall be shown on the preliminary and final maps.

Discussion followed. Mr. Eliason suggested that the developer consider providing the following:

- additional 25 foot wide structure setback from the initial 25 foot wide undisturbed buffer along the Monterrane boundary (for a total of 50 feet),
- additional erosion control requirements for builders and homeowners on individual lots, and
- a site plan showing the locations of the proposed house sites be submitted to the Planning Department at preliminary review submittal.

Staff reminded the Board that the County cannot enforce these private restrictions and that these conditions would have to be placed on the property by way of private covenants/ restrictions. Mr. Styers stated that the applicant voluntarily agrees to provide the above.

The motion passed 7-2 with Mason, McCoy, McBee, Cross, Eliason, Harris, and Nettles voting in favor of the motion; and Kost and Walker voting against.

- B. Request by Dornoch Group for subdivision sketch design approval of "**Lystra Road Subdivision**", consisting of 90 lots on 144 acres, located off SR-1721, Lystra Road, Williams Township.

Ms. Richardson reviewed the agenda notes for this request. She noted a revision to the word "changed" in condition #1 to "clarified" as follows:

"Note # 16 be ~~changed~~-clarified on the preliminary and final plats to read, "No septic systems shall be located within 100 feet of Herndon Creek. No structures shall be located within 200 feet of Herndon Creek".

The following adjacent landowners spoke:

- Marilyn Collins, 838 Lystra Road

Ms. Collins stated that this application has already been before the Board a couple of times; that each application has listed a different developer, a different name, and with minor changes; that the map included in the letter of notification she received was not legible; that she is concerned with, 1.) pot holes along Lystra Road, 2.) increased traffic, 3.) need for an environmental impact study, 4.) additional research needed on the existing cemetery, and 5.) buffers (at least 50 feet with heavy coverage). Ms. Collins asked that the Board protect the adjacent landowners and that this request be delayed until an environmental impact study is done.

- Simon Smith, 598 Jones Branch Road

Mr. Smith stated that he and his wife Gretchen have lived at this residence for eleven years; that he urges the Board not to approve sketch design; that during the March 2006 conditional use permit request for this property he spoke in opposition because the application did not satisfy two of the required findings; that a few weeks after this meeting the developer retracted the application; that early in the Summer the developer organized a community input session at a local church; that later a second meeting was held to present a revised plan; that this latest design was submitted in November and is radically different from all previous designs; that with the exception of not using a waste water spray system the new design incorporates few if any of the recommendations of the surrounding community; and that some of the reasons the Board should not recommend approval are:

- steep roads
- septic fields, i.e. locations
- misleading master plan
- buffers, i.e. at least 50 foot buffers to adjacent landowners
- traffic study needed
- man made rock formations
- property owners, i.e. who will be developing property

Mr. Smith urged the Board not to approve the current plan as submitted.

- Gretchen Smith, 598 Jones Branch Road (11 acres)

Ms. Smith stated that she is also speaking on behalf of the Jones Branch Homeowners Association; that she asked that the Board not approve the application as submitted; and that some of her concerns about the current process for subdivision sketch design regarding this request are as follows:

- insufficient information provided by the developers for a thorough and responsible review of the application by the County or the public on the proposed development's environmental and economic impact to the County and surrounding community, and

- not enough notification time (14 days) to adjacent landowners
- would like to see public hearings required for all subdivision sketch design approval because it insures that adjacent property owners and other interested parties are provided the opportunity to express their opinions and concerns.

Ms. Smith stated that the following was provided to the developer at two different community meetings:

Letters dated June 5, 2006 and August 9, 2006 to Garon Reeves, W.R. Henderson & Associates, from Gretchen Smith, President, Jones Branch Homeowners' Association, listing concerns and suggestions. (Note: Copies were distributed to Board members and are also filed in the Planning Department.)

Ms. Smith stated that the only suggestion that has been incorporated into the current design is that there are no spray fields; and that several major concerns are:

- unsuitable for subdivision as proposed due to:
 - proximity to (and in some areas inclusion within) Herndon Creek Ravine Natural Heritage area designated by the North Carolina Natural Heritage Program (See copy of letter filed in the Planning Department dated March 17, 2006 to Mr. Keith Megginson from Kristen Sinclair, County Inventory Manager, Natural Heritage Program, NCDENR.)
 - number of wetlands and streams located on the property including unnamed tributaries draining into Jones Branch stream and Herndon Creek on adjacent properties
 - steepness of the topography in many areas of the property
 - bouldery and extremely bouldery surface on a significant portion of the property
 - sites located on the property that should be reviewed by the Office of State Archeology, i.e. burial sites
 - narrow winding rural road (Lystra Road) not designed for traffic generated by large developments
 - need for an environmental and economical impact assessment
 - conservation easements
 - soil evaluations and drip systems
 - wetlands and streams, i.e. require 300 foot buffers

Ms. Smith invited the Planning staff, Planning Board, and Board of Commissioners to tour the property with adjacent landowners as a part of this review to fully understand and appreciate first hand the special nature of the land and the peculiarities in the proposed layout. She noted that some of her handouts tonight were prepared by Allison Weakley. Ms. Smith asked that Ms. Weakley be allowed to speak regarding some of these concerns. Ms. Smith provided additional handouts and copies of these are on file in the Planning Department, i.e. 1.) her presentation, 2.) Letter from Kristen Sinclair, NCDENR recommending 300-foot buffers along Herndon Creek, 3.) The Herndon Creek Conservation Project dated November 23, 2006, 4.) Conservation in the Herndon Creek Watershed dated 18 August 2006, 4.) North Carolina Wildlife Resources Commission Guidance Memorandum, and 5.) her letters of suggestions to Garon Reeves (also noted above).

Discussion followed regarding current use of the proposed land by some adjacent landowners, i.e. walking trails, four-wheeling. Mr. Eliason stated that he doesn't think that adjoining landowners can ask the Board to protect their rights to enjoy something that is not theirs. Mr. Walker noted that if there are legitimate archeological or Natural Heritage concerns they should be addressed and that the Ordinance allows for investigation of heritage and archeological sites.

- John Emerick, 424 Jones Branch Road

Mr. Emerick stated that the Zoning Ordinance should protect the nature and character of the community; that all lots in Jones Branch are 8 to 10 acres in size; that this development proposes 1 to 2 acre lots; that the ravine area is a concern with regards to possible inadequate setbacks; and that as Chatham County changes from a rural county some things needs to be protected.

- Robin Dennis, and Cosima Long, 50 West Newman Road (16.5 acres)

Ms. Long stated that she and Mr. Dennis are adjacent property owners on the southern side of the proposed development; that Herndon Creek runs through their property; that she and Mr. Dennis ask that the Board not approve the request as it is submitted; and that there are too many things that have not been clearly addressed. Mr. Dennis stated concerns regarding, 1.) the Natural Heritage area, 2.) the proposed cul-de-sac, 3.) proposed septic fields and the affects on Herndon Creek, i.e. silt and soil, 4.) drip systems, 5.) expanding the buffering around Herndon Creek up to the edge of the Natural Heritage area to 300 feet (instead of 100 feet), 6.) density, and 7.) light pollution. Ms. Long stated that they are among a group of neighbors who would be happy to make a conservation donation to the EEP (Environmental Enhancement Program).

It was noted that Lystra Gardens, LLC is the current developer; and that W.R. Henderson applied for the development but is not the property owner and is no longer involved with the project.

- Allison Weakley spoke representing some adjacent landowners.

Ms. Weakley stated that she met with the previous developer and is willing to work with the current developer. Some of her concerns noted were:

- lot configurations, i.e. recommend that the developer redesign some of the lots

- why proposed stub-outs to the Durham property since property fronts Lystra Road
- road length differs significantly on sketch map data table (5,229 LF of road) and the site data description (9,347 LF of road)
- number of seeps not documented on site plan (Note: see copy of map distributed by Ms. Weakley in the Planning Department entitled, "Natural Resource Data Map, Lystra Road Subdivision, Chatham County, NC".)
- traffic impact assessment and economic impact assessment – requests that these be done
- environmental impact assessment – requests that this be done given the nature of the site, i.e. wetlands, potential for rare species, significant natural heritage area
- erosion / runoff potential, i.e. very steep land
- rock mounds present on this site (areas shown on map referenced above), i.e. possible gravesites.

Ms. Weakley distributed copies of an E-mail from Steve Claggett dated December 4, 2006 regarding her report of a possible archeological site on the proposed property. She noted that Mr. Claggett recommends that an experienced professional archaeologist do a first-hand inspection of the area to document the locations and dimensions of the features, and to search for any associated artifacts that might better date their construction. (A copy of this E-mail is on file in the Planning Department.) Ms. Weakley stated that wetlands on site are not documented adequately on the wetlands map; that wetlands are more extensive than indicated by the developer, i.e. impact on roads and homes; that the Compact Communities Ordinance allows for 100 foot buffers on perennial streams, 50 foot buffers on intermittent streams, and 30 – 50 foot buffers on ephemeral streams (depending on acreage size); that the proposed main entrance has marginal wetlands; that she encourages the Board to ask for more details on the wetlands on site because this will impact what can be done on the site; that storm water is a concern relative to runoff; that this area is an important wildlife corridor; that this application does not include adequate information to make decisions; that she encourages the Board not to approve this subdivision as submitted; and that the Board require economic and environmental impact assessments of this project.

- Jennie Deloach, Booth Hill residence

Ms. Deloach referenced lots on the plat map (noted as "D" lots) that require surface drip irrigation and require 60,000 sq. ft. per lot. She noted discrepancies with the acreage on some of these lots (some smaller than 60,000 sq. ft.). Ms. Deloach voiced concerns regarding runoff into Jones Branch, traffic, lighting, and the amount of trees to be taken out for septic systems.

No other landowners spoke at this time.

5-minute break. (8:40 p.m.)

Mr. Eliason stated that the application did not address management of storm water runoff in the impervious surface areas of this project.

Bob Zumwalt, landscape architect with The John R. McAdams Company, Inc., was present representing the applicant. Mr. Zumwalt stated that he has been involved with this project for over a year and has attended a number of meetings with adjacent landowners; that the previous project was proposed to have 140 homes with a private waste water treatment plant; that some key points made by adjacent landowners during the meetings were:

- number of proposed lots need to be reduced,
- lot sizes were generally too small,
- avoid clear cutting, and
- try to preserve large amounts of wooded areas.

Mr. Zumwalt stated that, as a result of these comments and after meeting with the new developer and revisiting the site, a detailed wetlands evaluation was done by S&EC; that these wetlands and stream buffers have been field surveyed by a survey crew; that plans were revisited with efforts to respond to the comments and concerns; that the waste water treatment plant was eliminated; that the project was reduced by 50 lots; that the minimum lot size was increased to 40,000 sq. ft. (from approx. 12,000 sq. ft.); that the average lot size is currently about 1.2 acres; that the layout has been revised for more traditional conservation design, i.e. preserving as much of the rural character of the land as possible; that previous maps (noting soil suitability) were prepared by S&EC based on the fact that the first application was for a surface application of waste water treatment from a private plant; that this is a totally different application and solution to the sewer system; that 3-4 houses would be built within the Herndon Creek ravine area (as close to the street as possible); and that the developer would move the proposed cul-de-sac up the hill a little if asked to do so. Mr. Zumwalt distributed pictures of the existing rock piles on the property. (Copies are filed in the Planning Department.) He noted that experience in the past with rock piles such as these has been that these are typically areas farmed long ago and that the rocks have been moved to the side. Mr. Zumwalt cited that the developer is sensitive to the impacts of construction and that the plan exceeds requirements of the Subdivision Regulations. Regarding storm water, Mr. Zumwalt stated that the developer has evaluated the impacts of storm water and can provide further information once designs are completed.

Mr. Eliason strongly encouraged the applicant to present (at preliminary plat review submittal) a very well developed storm water quality plan that also certifies that the velocity and the amount of flow does not exceed what is already there. He stated that he would like better clarification and understanding about how the developer is going to maintain the illustrative plan since this is the plan presented to the Board and the expectations of the Board. Mr. Eliason noted other specifics as follows:

- maintain the rural character and quality of Lystra Road

- suitability of the property with regards to public roadways, storm water quality, limit land clearing; waste water lots permitted by Chatham County, and
- placement of houses on lots.

Mr. Zumwalt stated that many areas in the Triangle allow development with no restrictions on slopes up to 25%; that a typical house might be 40 feet deep; that with the slope, 8 or 9 feet is the perfect day light basement house; and that, regarding suitability as far as grading, it is best to follow the contours with the road to minimize the grading and then to employ home construction techniques and creativity.

Mr. Eliason stated that Allison Weakley and her husband are experts in their fields; and that it is well founded if they have discovered differences in the wetlands on the proposed property.

Jonathon Townsley, Soil and Environmental Consultants, PA (S&EC), was present on behalf of the applicant. Mr. Townsley stated that S&EC has delineated the wetlands on the site; that at this point they haven't had a site meeting to confirm with the Corps of Engineers and DWQ; and that from his evaluation the area mentioned earlier does not meet the hydrology criteria for jurisdictional wetlands.

Discussion followed regarding the system change (initial waste water treatment to individual septic), surface drip lots, traffic analysis, distance of houses from street, certain distance of right-of-way, and storm water quality management plan. Mr. Townsley stated that some of the lots designated as proposed individual drip systems would be found suitable for sub-surface drip systems. Mr. Zumwalt stated that a traffic analysis was not required; and that a 130 lot TIA did not show the need for turn lanes on Lystra Road; that turn lanes would be added if required by DOT; and that the preliminary plat would show many of the specifics discussed above. Mr. Eliason encouraged taper lanes with increased site distance at the entrance and that he personally requests that the developer address the concerns of Ms. Weakley and her husband.

Motion to grant approval:

Mr. McCoy made a motion to grant sketch design approval of the Lystra Road Property as submitted and as recommended by staff with the following condition:

1. Note # 16 be changed on the preliminary and final plats to read, "No septic systems shall be located within 100 feet of Herndon Creek. No structures shall be located within 200 feet of Herndon Creek.

Mr. Eliason asked Mr. McCoy to include in his motion that the developer agrees to turning lanes off Lystra Road. Discussion followed. It was noted that these are standards recommended (or allowed) by DOT and could not be required by the Board. Mr. Zumwalt stated that turning lanes would be provided with approval from DOT. Mr. Eliason seconded the motion.

Discussion followed. Mr. Harris reiterated the need for a traffic analysis. Mr. Walker stated that he is familiar with the proposed land and Lystra Road; that the land cannot be suitably developed the way the plan is drawn; that the plan does not work with our Land Development Plan; and that Lystra Road is a terrible road that cannot handle development that has already been approved. Ms. Kost stated that our Subdivision Regulations address suitable of land, specifically erosion; that the topography of this land is not suitable for this type of subdivision; and that she plans to vote against the motion for approval. Ms. Cross stated that she does not think the development is suitable.

Vote on motion:

The motion failed 2-6-1 with McCoy and Eliason voting in favor of the motion; and McBee, Cross, Harris, Kost, Nettles, and Walker voting against; and an abstention from Mr. Mason.

Motion to Deny:

Discussion followed. Mr. Walker made a motion to deny the request on the basis that the plan is unsuitable for that particular piece of land; and that all of the environmental issues have not been addressed and therefore need to be revisited. Mr. Zumwalt stated that at this point the developer has submitted everything required but that they do plan to investigate architectural guidelines and erosion control measures. Ms. Kost seconded Mr. Walker's motion to deny the request. Discussion followed. Ms. Cross stated that she is not comfortable that concerns regarding the Natural Heritage Program and other issues have been met; and that an environmental impact statement would be appropriate.

Motion to Table:

Mr. Eliason suggested that the issue be tabled to allow the developer additional time to present a better rational as to why they think the plan is suitable. Mr. McBee stated that some major concerns to be addressed are traffic, storm water runoff, and the closeness of lots to steep banks. Mr. Walker stated that he is willing to amend his motion to allow the developer this additional time. He encouraged the developer to address concerns of the neighbors. Mr. Walker amended his motion to now state that the issue be tabled for one month to allow the developer additional time to present a better rational as to why they think the plan is suitable and to address concerns of the neighbors. Ms. Kost seconded the motion and the motion passed unanimously. (9 Board members) Mr. Harris reiterated his concern regarding traffic and the need for a traffic analysis. Ms. Kost stated that she would like to visit this site.

VI. ZONING AND ORDINANCE AMENDMENTS - *Items from November 20, 2006 Public Hearing:*

- A. 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.

Mr. McCoy stated that he is familiar with this project. Mr. McCoy made a motion, seconded by Ms. Cross, to grant approval of the rezoning request as submitted and as recommended by staff.

No adjacent landowners spoke.

Discussion followed. Ms. Birchett reviewed the agenda notes. She stated that a legislative public hearing has been held on this issue; that the Board could entertain questions of the applicant and/or developer; but that this should be done cautiously. Ms. Birchett used the large overview map to explain the proposed plans.

Lunday Riggsbee, attorney, was present representing the applicant.

There was no further discussion. Mr. McCoy restated his motion to grant approval of the request as submitted and as recommended by staff. Ms. Cross seconded the motion and the motion passed unanimously. (9 Board members)

- B. 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.

Ms. Birchett reviewed the agenda notes for this request. She stated that further testimony on the conditional use permit aspect of this zoning request is prohibited; that clarification from the developer or applicant is permissible for application purposes only; and that this application also serves as subdivision sketch design.

Greg Isenhour, applicant, was present. Mr. Isenhour referenced staff condition #2 that states: "A minimum undisturbed buffer of 100' each side of Cub Creek that crosses this parcel shall be observed". He stated that the entire project was designed with 50-foot buffers; that he recommends maintaining a 75-foot buffer along the northeast corner of the proposed building; and that the creek takes a bend in this area and 100 foot buffer would make it too tight. Mr. Isenhour asked if staff condition #3 regarding storm water measures (2 year, 24 hour storm) pertains to the entire project or just this new section. Ms. Birchett stated that the 2 year, 24 hour storm water measures would pertain only to this new section. Regarding emergency services, Mr. Isenhour stated that he understands the need to provide for emergency services; that he has discussed with Ms. Birchett plans to install a gate; that the nearby mobile home park has had some crime issues in the past; and that he would like to stay separated from this area as much as possible.

Mr. Walker made a motion to grant approval of the request as submitted and as recommended by staff, with revisions to condition #2 to state "undisturbed buffer of 75 foot" (instead of 100'); and with revision to condition #3 to add language, "for the new development area". Ms. Cross seconded the motion and the motion passed unanimously. (9 Board members)

The three (3) conditions are as follows:

- 1) Any extension of Plaza Dr. and any other roads to be developed in connection with this request are to be built and paved to NCDOT standards and is to be extended through the development connecting with Plaza Drive Extension to allow full movement of emergency service's vehicles. The

applicant reserves the right to install a security gate at the entrance off Plaza Drive Extension for access by emergency vehicles only; not open for public use.

- 2) A minimum undisturbed buffer of 75' each side of Cub Creek that crosses this parcel shall be observed.
 - 3) Storm water measures shall be enlarged and/or installed to sustain the 2-year, 24-hour storm for the new development area before the final certificate of occupancy is issued.
- C. Request for 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. Sullivan stated that this issue was heard at the recent public hearing (November 20, 2006); that in 2005 staff was provided new flood plain maps for Chatham County; that due to changes to Federal and State regulations governing minimum requirements to participate in the National Flood Insurance Program (NFIP) and as part of revisions to the Flood Insurance Rate Maps, amendments to the Flood Damage Prevention Ordinance are required; and that the only change since the public hearing is some comments about making sure pedestrian bridges and greenways would be allowed in the special flood hazard areas.

Ms. Kost stated that most of the public comments dealt with trails and bridges. She asked if boardwalks would be allowed under the revisions and if all the comments heard were addressed. Mr. Sullivan stated that boardwalks would be allowed.

Ms. Kost made a motion; seconded by Mr. Mason to grant approval of the revised text of the Flood Damage Prevention Ordinance as submitted and included in attachment 1 of tonight's agenda notes. The motion passed unanimously. (9 Board members)

VII. OLD BUSINESS:

No reports were submitted.

VIII. NEW BUSINESS:

- A. Planning Director's Report
 1. *Update on court cases*

Mr. Megginson stated that some Board members expressed concern that their names were mentioned on lawsuits. He gave a brief synopsis of the three lawsuits that were pending as follows:

- Fearington Place zoning (shopping center across from Fearington):
Judge ruled that the County was correct - not sure if an appeal will be filed since the time is not up yet to do so;

- Thomas Marriott, Alice Yeaman and others:
Mr. Megginson stated that the Judge ruled in favor of the County because the plaintiffs did not have standing but the attorneys pointed out that not having triggering mechanisms for an environmental impact assessment was a problem.
- Zoning Board of Adjustment (Lee Moore Oil Company) - by Deborah and Bob Murdock and others:
Mr. Megginson stated that this lawsuit was filed regarding our interpretation of the zoning done in 1974; that the Judge ruled in favor of the County; that the County Commissioners (as Zoning Board of Adjustment) upheld our interpretation; that the plaintiffs filed with Superior Court to appeal the Zoning Board of Adjustment position and has not been heard yet (probably January); but that we think the County will prevail on this one.

Mr. Megginson noted that currently no other lawsuits have been filed.

B. Planning Board Member's Report

1. Consideration of approval of 2007 Planning Board Calendar

Mr. McBee stated that the months of July (July 4th Holiday) and November (Election Day) were the dates for the Board to consider. Following discussion, the changes to the 2007 calendar were made as follows:

July Planning Board meeting - moved forward a week to Tuesday, July 10, 2007
November " " - moved back a day to Monday, November 5, 2007

Ms. Cross made a motion; seconded by Mr. Eliason to adopt the 2007 Planning Board Calendar with the two revisions noted above. There was no further discussion and the motion passed unanimously. (9 Board members)

IX. ADJOURNMENT: There being no further business, Mr. Mason made a motion; seconded by Ms. Cross to adjourn tonight's meeting. The motion passed unanimously (9 Board members) and the meeting adjourned at 10:10 p.m.

Mark McBee, Chair

Date

Attest:

Kay Everage, Secretary to the Board

Date