

Chatham County Planning Board Minutes July 1, 2014



The Chatham County Planning Board met in regular session on the above date in the Agriculture Building Auditorium, Pittsboro, North Carolina.

Members present were as follows:

Present:

B. J. Copeland, Chair
Bill Arthur
Philip Bienvenue
James Crawford
Gene Galin
Tom Glendinning
Donna Kelly
Cecil Wilson
Cathy Wright

Absent:

Karl Ernst
Mike Grigg

Planning Department:

Jason Sullivan, Planning Director
Hillary Pace, Planner II
Lynn Richardson, Subdivision Administrator
Kimberly Tyson, Clerk to the Board

I. INVOCATION AND PLEDGE OF ALLEGIANCE:

Chair Copeland delivered the invocation and afterwards the Chairman invited everyone to stand and recite the Pledge of Allegiance.

II. CALL TO ORDER:

Chair Copeland called the meeting to order at 6:30 p.m.

III. DETERMINATION OF QUORUM:

The clerk stated that a quorum was present to begin the meeting (9 members)

IV. APPROVAL OF AGENDA:

See Item V. below.

V. APPROVAL OF CONSENT AGENDA:

Minutes: Consideration of a request for approval of the May 6, 2014 Planning Board minutes.

Board members had no objections to above items IV. and V. and were considered approved as submitted.

VI. PUBLIC INPUT SESSION: Fifteen-minute time of public input for issues **not** on agenda. Speakers limited to three (3) minutes each.

There were no requests to speak at this time.

VII. ZONING AND ORDINANCE AMENDMENTS:

Legislative Request:

1. A request by Jim Anderson and Warren Mitchell dba Meadows Land Investment, LLC, for a rezoning on Parcel No. 18727 located at 12330 US 15-501 N, from R-1 Residential to CD-RB Conditional District Regional Business, on approximately 3.677 acres, for a four-story (4-story) self-storage facility.

Mr. Sullivan briefly reviewed the agenda notes for a rezoning on parcel number 18727, from R-1 to CD-RB for a four-story self-storage facility. A legislative public hearing was held on June 16, 2014. Planning staff presented the application and reviewed some concerns and comments from the submittal process that the applicant had addressed and/or corrected. Mr. Mitchell, applicant, spoke briefly at the public hearing and no one else spoke on the issue. The applicant met with the Appearance Commission and they showed concerns over the height of the buildings lighting and lighting on the wall signage. The applicant agreed to drop the lights to no more than 20 feet and the Appearance Commission approved the landscaping plan submitted by applicant.

There are four items listed in the Zoning Ordinance that must be addressed by an applicant when submitting a rezoning application. The applicant has addressed those items in the application materials as follow:

Item #1: The alleged error in this Ordinance, if any, which would be remedied by the proposed amendment with a detailed description of such error in the Ordinance and detailed reasons how the proposed amendment will correct the same.

The applicant is not claiming any error in the ordinance.

Item #2: The changed or changing conditions, if any, of the area or in the County generally, which make the proposed amendment reasonably necessary to the promotion of the public health, safety and general welfare.

The applicants state the adjacent properties to this location are currently non-residential. Due to recent changes in land uses in this area, they feel this parcel is now better suited for non-residential use. Growth in this portion of the county has increased with the approval of new subdivisions as well as in Orange County and is expected to continue. Based on the current growth, the applicant is proposing a full enclosed, climate controlled, four-story self-storage facility. There is no other facility like the one proposed in this area Chatham County.

Item #3: The manner in which the proposed amendment will carry out the intent and purpose of any adopted plans or parts thereof.

Page 1 of the Land Conservation and Development Plan, further known as the “Plan” encourages guiding development towards areas planned for urban and suburban

growth and away from areas with valued environmental or rural qualities. This property does not have any special environmental features, streams, or historic structures.

Page 25 of the Plan encourages guiding growth along the US 15-501 corridor between Orange County and Pittsboro where growth is expected. This location is located within that recommended area.

One of the goals of the Plan is to protect surface and groundwater resources. In order to increase the amount of usable square footage the applicant is seeking, the four-story structure helps to protect these resources. Two buildings are being proposed; one 72,000 square feet and one 50,400 square feet. If these were to be located in single story units, there could possibly be 4 or more buildings. By constructing multi-story, there are only two roofs with runoff to capture. The applicant has designed a stormwater pond that meets or exceeds the Chatham County Stormwater Ordinance requirements and that permit will be reviewed for approval by Dan LaMontagne with Environmental Quality. The applicant also completed an Environmental Impact Assessment (EIA) which Mr. LaMontagne has reviewed and determined to meet the requirements of the ordinance.

Item #4: All other circumstances, factors, and reasons which the applicant offers in support of the proposed amendment.

The subject property is located on a major transportation corridor in an area that is expected to grow. The project will create one to two full time positions to man the office located on the first floor.

During initial reviews and discussions with staff and the Chatham County Appearance Commission, a concern over the height of the building lighting, signage, and a portion of the perimeter landscaping were made. The height of the wall mounted lights on the building was originally submitted at 30 feet. Due to the elevations and topography of the southern property line boundary that is adjacent to the residents in Arbor Lea, the concern was they would be able to see the bottom of the light distribution. Since wall packs are required to be full cutoff, this could pose an issue. After discussion, the applicant agreed to drop the lights to no more than 20 feet.

There was a concern regarding the height of the original proposed freestanding sign. The applicant offered a height of 18 feet which the CCAC accepted.

Planning staff recommends approval with the following conditions:

Site Specific Conditions

1. The recommendations of the Chatham County Appearance Commission shall be followed as revised and agreed to by the applicant. Should adjacent properties remove their existing vegetation, this project will be required to supplement the landscaping according to the Zoning Ordinance Landscaping Guidelines in order to ensure this project remains in compliance. The applicant should ensure the

maintenance and survival of all plantings which shall be installed at the next optimal planting season following the issuance of the building permit.

Standard Site Conditions

2. The application, standards and adopted regulations of the applicable ordinances and policies, and the approved recommendations as provided for and/or conditioned, are considered to be the standards as set forth and shall comply as stated. Changes or variations must be approved through the Planning Department or other approving board before any such changes can take place. These include but are not limited to landscaping, lighting, signage, parking, building construction, etc.
3. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Erosion & Sedimentation Control, Environmental Health Division, Stormwater Management, Building Inspections, Fire Marshal, etc.) shall be obtained, if required, and copies submitted to the Planning Department prior to the initiation of the operation/business.
4. A Certificate of Occupancy shall be obtained within two years of the date of this approval unless other approval/s has been given for an extension, or this approval becomes null and void.

Standard Administrative Conditions:

5. Fees - Applicant and/or landowner shall pay to the County all required fees and charges attributable to the development of its project in a timely manner, including, but not limited to, utility, subdivision, zoning, and building inspections.
6. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditions listed above.
7. Non-Severability - If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
8. Non-Waiver - Nothing contained herein shall be deemed to waive any discretion on the part of the County as to further development of the applicant's property and this permit shall not give the applicant any vested right to develop its property in any other manner than as set forth herein.

Board discussion followed.

Mr. Mitchell and Mr. Anderson, applicants, were present and Mr. Mitchell spoke briefly about the project.

Motion to approve:

Mr. Galin made a motion; seconded by Mr. Glendinning to recommend rezoning with the following conditions: Site Specific Conditions, Standard Site Conditions, and Standard Administrative Conditions. No further discussion and motion passed by vote of 8-1 (Arthur opposed).

Consistency Statement:

It is the opinion of the Planning Board the request to rezone Parcel No. 18727 in its entirety, from R-1 Residential to CD-RB is consistent with the adopted land use plans and regulations of the County, and therefore is approved as requested.

Motion to approve:

Mr. Galin made a motion; seconded by Ms. Wright to adopt the consistency statement. No further discussion and motion passed by vote of 8-1 (Glendinning opposed).

2. A request from Will Copeland dba LIR Enterprises for a text amendment to the Chatham County Zoning Ordinance, Section 10.5.B, B1 Business District Dimensional Regulation, to change the language of “open carports” to “open structures”.

Mr. Sullivan briefly reviewed the agenda notes for a text amendment to the Chatham County Zoning Ordinance, Section 10.5.B to change to language of “open carports” to “open structures”. A legislative public hearing was held on June 16, 2014. Planning staff presented the request and there were no other comments or discussion. The Board of Commissioners closed the public hearing.

The applicant, Mr. William Copeland, has constructed an open structure on his B-1 Business property located at 40 Beaver Creek Rd. It was discovered the structure had not been properly permitted and possibly did not meet the required setbacks for the site. The B-1 Business zoning district requires a 50 foot front setback from the property line and 20 feet on any side or rear. Currently the Chatham County Zoning Ordinance allows for “open carports” to be located within 10 feet of any property line. This application is to modify the Zoning Ordinance to allow “open structures” within 10 feet of a property line.

The applicant is proposing to use an open structure for the selling of produce or other seasonal fruits, vegetables, and the like. Currently, there is not a definition in the Zoning Ordinance for open carport but it has been permitted as a roofed structure, open on all sides whether temporary or permanent. This would be a common use for an open structure or carport. Planning staff recommends a new definition be added to the Zoning Ordinance as follows: Section 7 – Definitions; Open Structures – a building or structure, open on all sides supported by a roof and posts or columns and change the language in all zoning districts as follows: Sections 10.1; 10.2; 10.3; 10.4; 10.5; 10.6; 10.7; 10.8; 10.9; 10.10 – change the term “open carports” to “open structures”.

Board discussion followed.

Motion to approve:

Mr. Glendinning made a motion; seconded by Mr. Wilson to approve as submitted. No further discussion and motion passed unanimously (9 members).

Consistency Statement:

The request to amend the zoning ordinance is consistent with the adopted land use plans and regulations of the County, and approved as provided in the Ordinance Amending the Zoning Ordinance.

Motion to approve:

Mr. Wilson made a motion; seconded by Ms. Kelly to adopt the consistency statement. No further discussion and motion passed by vote of 8-1 (Glendinning opposed).

3. A request by The Retreat on Haw River, LLC to rezone Parcels 3027, 87217, 86946, 81274, and 86878 – 86944, from CU-RA90 to a split zoning district consisting of R-1 Residential for lands outside the River Corridor area and R-5 Residential to lands within the River Corridor, being approximately 650 acres collectively, located off Bynum Ridge Rd.

Mr. Sullivan review the agenda notes for the rezoning of parcel numbers 3027, 87217, 86946, 81274, and 86878 – 86944, from CU-RA90 to a split zoning district consisting of R-1 Residential for lands outside the River Corridor area and R-5 Residential to lands within the River Corridor. A legislative public hearing was held on this request June 16, 2014. Planning staff presented the application. At that time there were no known issues with the current property or application request. Attorney for the project, Nicolas Robinson, also spoke on behalf of his client. No one else spoke.

The original rezoning of these parcels was made in 2005 from RA-40 and RA-5 to CU-RA 90 which allowed one (1) dwelling on all lots to be no smaller than two (2) acres in size. The original name of this development was William's Pond and was permitted for 185 lots with individual septic.

Although not required by the Chatham County Zoning Ordinance for a general use rezoning, the Chatham County Subdivision Regulations required a community meeting regarding the conservation subdivision submittal also being reviewed simultaneously with this request. The meeting was held on April 7, 2014 and the topics discussed included were walking trails, parks open to the public, lot density, view of wastewater treatment plant, spray area locations, cemetery protection, and enlarged buffer along the Haw River.

This is a general use rezoning request. The standard for which a general rezoning map amendment is to be processed are as follows:

1. In response to any alleged error in the Ordinance, if any, which may be remedied by this proposed amendment, the applicant is claiming none.
2. The changed or changing conditions, if any, in the area or in the County generally, which make the proposed amendment reasonably necessary for the promotion of the public health, safety, and general welfare. Also submitted simultaneously with this rezoning request is a request for a Conservation Subdivision, which is also presented to the Planning Board for review. A Conservation Subdivision was not an option for development at the time the original request was approved. Since that time, the applicant thinks that due to the housing recession since about 2007/2008, a subdivision with smaller lots and significant conservation area has become more viable.

As for the zoning designation, an R-5 zoning classification gives more protection to the lands within 2500 feet of the river. Larger lots play a key role in making sure nutrients and runoff are better filtered before reaching the waters therefore offering better protection against contaminants or other harmful effects. This rezoning puts that added protection back into the development.

3. The manner in which the proposed amendment will carry out the intent and purpose of the adopted Land Use Plan or part thereof would be to return to the zoning classifications it had when the Plan was adopted. The Plan encourages development be done through an integrated approach in protecting and promoting high-quality open space, recreation, historic and tourism locations. The applicant feels through this new plan, natural resources have been identified, conserved, and protected, surface and underground water resources are effectively protected, the emphasis on clustered and mixed use developments is being adhered to, and an increase in open space has been accomplished.
4. Other circumstances, factors, and reasons which the applicant offers in support of the proposed amendment are the rezoning is significant in making the conservation subdivision possible, facilitating the preservation of approximately 428 acres, protecting the watershed, and creating well planned recreational opportunities within proximity of the Haw River.

Staff received an email from the Bermudez family with concerns about stormwater runoff and requesting that a 6 foot fence be constructed by the owner at the property line (email is posted on the planning department website). Since this is a general use rezoning request conditions cannot be attached.

Planning staff recommends approving this general rezoning request.

No board discussion.

Mr. Nicholas Robinson, attorney, was present on behalf of his clients for any questions.

Motion to approve:

Ms. Wright made a motion; seconded by Mr. Arthur to recommend approval of rezoning request. No further discussion and motion passed unanimously (9 members).

Consistency Statement:

It is the opinion of the Planning Board the request to rezone the parcels that represent the R-1 Residential District containing 409.556 acres more or less and the parcels that represent the R-5 Residential District containing 239.836 acres more or less is consistent with the adopted land use plans and regulations of the County and therefore is approved as requested.

Motion to approve:

Mr. Crawford made a motion; seconded by Ms. Kelly to adopt the consistency statement. No further discussion and motion passed by vote of 8-1 (Glendinning opposed).

4. A Wireless Telecommunication Permit request by American Tower Corporation and AT&T Mobility for a portion of Parcel No. 3391, known as the Bennett Site, located at 24477 NC Hwy 902 for a 300' self-supported telecommunications tower on a lease area of approximately 0.69 acres of the 28.90 acre tract, unzoned, within the Bear Creek Township. The application includes a waiver request to exceed 199' in height pursuant to Section 2-4 of the Wireless Telecommunication Facilities Ordinance.

Ms. Pace reviewed the agenda notes for propose cell tower on parcel number 3391, known as Bennett Site located at 24477 NC Hwy 902. A quasi-judicial public hearing was held on this request June 16th, 2014. Planning staff presented the request. Karen Kemerait, attorney for the applicant, presented the application. Ms. Kemerait covered the application, required findings of fact, and answered questions from the Board and staff. No public comments were received regarding the proposed Bennett cell tower. During the public hearing, the applicant answered questions about the height of the tower, as the project includes a waiver to exceed 199' in height. The Ordinance requires technical information or other justification to document the need for the additional height request. The following information was submitted into the record, in addition to the project application, for the waiver justification:

- The applicant provided radio frequency justification maps to illustrate the proposed coverage of the 300' tower.
- The applicant's attorney stated that 300' towers are generally spaced five miles apart and 195' towers are generally spaced three miles apart.

Please note that pursuant to NCGS § 153A-349.52 (c), A county may not require information that concerns the specific need for the wireless support structure, including if the service to be provided from the wireless support structure is to add additional wireless coverage or additional wireless capacity.

The proposed site is on 28.90 acres of unzoned area of the county. The total proposed site disturbance is 9703 sq. ft. Access to the tower is from an existing drive off Hwy 902, near the intersection of Hwy 902 and Hwy 22/42 and the applicant will obtain a driveway permit from NCDOT as required. The proposed access drive is 30' in easement width, with a 12' graveled access drive. The Fire Marshal has indicated this access road width and proposed vehicle turnaround is acceptable for emergency services.

The tower is proposed to be a 300 foot self-supported lattice tower with a 15' lighting rod. The tower will include an AT&T antenna and space for three other wireless providers both on the tower and within the fenced compound, consistent with the minimum collocation accommodation requirements within the Wireless Ordinance. The

8' tall fence with three strands of barbed wire exceeds the minimum required 6' tall fencing around the tower compound.

It was noted within the initial site plan submittal that the total land disturbance proposed was 30,056 sq. ft., which exceeds the minimum 20,000sq. ft. threshold that would require a stormwater management plan and an erosion control plan. The applicant revised the total land disturbance to 9,703 sq. ft. with the site plan resubmitted on May 30, 2014.

The tower has a proposed height of 300' with a 15' lighting rod. Per the Wireless Telecommunications Facilities Ordinance ("Wireless Ordinance") a tower may exceed 199' in height with the granting of a waiver by the Board of Commissioners with the required technical justification. The applicant has provided such justification in the application.

Per the Wireless Ordinance, towers greater than 100' are subject to a setback of 50% of the Wireless Support Structure tower height or the engineered fall zone, whichever is greater. The engineered fall zone of the proposed tower is 300', which exceeds 50% of the tower height. The proposed location of the tower is compliant with the setbacks as shown in the application of the revised site plan dated May 30, 2014.

The Wireless Ordinance also requires a line of sight diagram showing the proposed tower from at least four different directions within the surrounding area. The applicant has provided this diagram, along with a balloon test illustrating the height which isn't required by the ordinance.

The proposed tower will comply with the FCC's lighting requirements and will be constructed of galvanized steel, gray in color, consistent with the Wireless Ordinance.

The proposed tower is located just northwest of the center of the parcel that and is heavily wooded. The tower will be located within the wooded portion of the lot and proposes a continuous all-season perimeter landscaping compliant with the landscape requirements of the Wireless Ordinance. The applicant's attorney stated that the tower will be required to have a flashing white light during that day and a red light pulse at night, specifically referred to as a dual lighting system of red lights (L-864) for nighttime and medium intensity flashing white lights (L-865) for daytime and twilight use. The applicant's attorney stated the lighting technology for towers has greatly advanced and the tower lights are designed so "little if any ground-scatter from the lighting will be detected at ground level". Additional information regarding the lighting system has been provided by the applicant's attorney as part of the Sufficiency Review response and is labeled "Dialight" Beacon Tower Lighting Information. Regarding the proposed color of the tower, the applicant's attorney entered into the record that the Federal Aviation Administration (FAA) has issued a Determination of No Hazard to Air Navigation. As a result, the FCC will not require the tower to be painted and the applicant is willing to enter into a condition requiring the tower to remain galvanized steel and gray in color.

As required by ordinance, the applicant held a community meeting April 29th, 2014. The applicant notified adjoining property owners by mail of the meeting and no citizens attended the meeting.

An interdepartmental staff review of the application was completed during the May 14th TRC meeting. Comments received included the requirement that the site receive an E911 address prior to building permit, per the E911 Addressing Office. Additionally, a blue line stream was apparent on the south of the subject property and per Environmental Quality staff, a revised site plan was requested to show the proposed tower in relation to these features. A revised site plan was received May 30th, 2014 with the stream feature identified, along with a 50' stream buffer, and not within proximity of the proposed tower.

The applicant also provided the following supplemental information that is not required of the Wireless Ordinance: Radio Frequency Maps, RF Letter of Justification, RF Engineers FCC Compliance Assessment, Property Impact Assessment, Impact on Emergency Services, Construction Schedule, and a FAA Determination of No Hazard and Lighting Report; this information is supplemental in nature and was not required by ordinance.

A Wireless Telecommunication Permit application must meet the required five findings as required by the Conditional Use Permit standards of Section 17 of the Chatham County Zoning Ordinance. Those findings are addressed as follows and are found on page 23, behind Tab 2 of the application packet:

FINDING #1 – The use requested is among those listed as an eligible conditional use in the district in which the subject property is located or is to be located. The proposed tower is located on a parcel within the unzoned portion of the county. However, telecommunication towers are regulated by the Wireless Telecommunications Facilities Ordinance, which requires a Wireless Telecommunication Permit approval processed in accordance with the standards for granting Conditional Use Permit set forth in the Chatham County Zoning Ordinance. Therefore the use requested is listed as an eligible conditional use in the district the subject property is located.

FINDING #2 – The requested conditional use permit is either essential or desirable for the public convenience or welfare. It is Planning Staff's opinion that this finding can be supported. The applicant states the proposed tower will provide convenience, safety, efficiency, as well as connectedness for the community. Presently, there is little if any wireless service in the subject area and a publicly communicated need for additional wireless coverage.

FINDING #3 – The requested permit will not impair the integrity or character of the surrounding or adjoining districts, and will not be detrimental to the health, safety, or welfare of the community. It is Planning Staff's opinion that this finding can be met due to the galvanized steel, gray color of the tower, the minimized lighting

impact on the landscape and additional support for emergency communications needs for the community.

FINDING #4 – The requested permit will be consistent with the objectives of the Land Use Plan. This request meets the recommendations of the Land Conservation and Development Plan Policy Objective #7: *Preserve both the form and function of rural character- the landscape.* The proposed tower is at such a height, that fewer of these towers will be required across the landscape, therefore preserving the rural character of Chatham County. This request is also consistent with Policy Objective #12: *Provide infrastructure in ways that support the land use, economic development and environmental objectives:* this proposed utility will support rural home-based businesses and encourage economic development.

Planning staff recommends approval of the waiver request as required by Section 2-4 (6) to exceed 199' in height based on the technical justification provided by the applicant and the Public Hearing Record; staff recommends approval of the cell tower site with the following conditions:

Site Specific Conditions

1. The tower shall be gray in color, constructed of galvanized steel.
2. Approval from NCDOT on the relocated commercial driveway must be obtained and a copy presented to the Planning Department before the issuance of the first building permit for the new structures.
3. At least one wireless tenant that intends to locate on the proposed tower must be identified at the time of building application. If a wireless tenant is not identified, then the building permit shall not be issued.

Standard Site Conditions

4. The application, standards and adopted regulations of the applicable ordinances and policies, and the approved recommendations as provided for and/or conditioned, are considered to be the standards as set forth and shall comply as stated. Changes or variations must be approved through the Planning Department or other approving board before any such changes can take place. These include but are not limited to landscaping, lighting, signage, parking, building construction, wireless facility abandonment and removal, etc.
5. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Erosion & Sedimentation Control, Environmental Health Division, Stormwater Management, Building Inspections, Fire Marshal, etc.) shall be obtained, if required, and copies submitted to the Planning Department prior to the initiation of the operation/business.
6. A building permit must be obtained and remain valid at all times within 2 years from the date of this approval or this permit shall become null and void.

Standard Administrative Conditions:

7. Fees - Applicant and/or landowner shall pay to the County all required fees and charges attributable to the development of its project in a timely manner, including, but not limited to, utility, subdivision, zoning, and building inspections.
8. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditions listed above.
9. Non-Severability - If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
10. Non-Waiver - Nothing contained herein shall be deemed to waive any discretion on the part of the County as to further development of the applicant's property and this permit shall not give the applicant any vested right to develop its property in any other manner than as set forth herein.

Board discussion followed.

Ms. Karen Kemerait, attorney, was present for questions and briefly spoke on the applicants behalf. Ms. Kemerait stated that this is one of several applications that American Tower and AT&T will be bringing. AT&T and American Tower are investing heavily in Chatham County to try to improve coverage in areas where there is currently no coverage for AT&T.

Motion to approve:

Mr. Glendinning made a motion; seconded by Ms. Kelly to recommend approval of Bennett cell tower site with waiver request and Site Specific, Standard Site and Standard Administrative Conditions. No further discussion and motion passed unanimously (9 members).

5. A Wireless Telecommunication Permit request by American Tower Corporation and AT&T Mobility for a portion of Parcel No. 12512, known as the Pleasant Hill Site, located off NC Hwy 902 near Cannon Rd. for a 300' self-supported telecommunications tower on a lease area of approximately 0.40 acres of the 107.20 acre tract, unzoned, within the Hickory Mountain Township. The application includes a waiver request to exceed 199' in height pursuant to Section 2-4 of the Wireless Telecommunication Facilities Ordinance.

Ms. Pace reviewed agenda notes for proposed cell tower on parcel number 12512 known as the Pleasant Hill Site. A quasi-judicial public hearing was held on this request June 16th, 2014. Planning staff presented the request. The applicant's attorney, Karen Kemerait presented the application. The applicant's attorney covered the application, required findings of fact, and answered questions from the Board. The Board received public input from four speakers, which included the landowner of the proposed tower site. The comments were all in support of the tower with the exception of one citizen who was in support of the proposed tower, but cautioned the applicant about the nearby Eagles Landing Airport. During the public hearing, the applicant answered questions about the height of the tower, as the project includes a waiver to exceed 199' in height. The Ordinance requires technical information or other justification to document the need

for the additional height request. The following information was submitted into the record, in addition to the project application, for the waiver justification:

- The applicant provided radio frequency maps (Tab 7 of the application) to illustrate the proposed coverage of the 300' tower.
- The applicant's attorney stated that 300' towers are generally spaced five miles apart and 195' towers are generally spaced three miles apart.

Please note that pursuant to NCGS § 153A-349.52 (c), A county may not require information that concerns the specific need for the wireless support structure, including if the service to be provided from the wireless support structure is to add additional wireless coverage or additional wireless capacity.

The proposed tower will be located on .40 acres within the unzoned portion of the county. The total proposed site disturbance is 14,147 sq. ft. The applicant has provided a map indicating the tower site is not within a Major Wildlife Area and is not within 1.5 miles of an existing tower.

Access to the tower site is off Hwy 902, between Cannon Rd. and Alex Cockman Rd. and the applicant will obtain a driveway permit from NCDOT as required. The proposed access drive is 30' in easement width, with a 12' graveled access drive. The Fire Marshal has indicated this access road width and proposed vehicle turnaround is acceptable for emergency services.

The tower is proposed to be a 300 foot self-supported lattice tower with a 15' lighting rod. The tower will include an AT&T antenna and space for three other wireless providers both on the tower and within the fenced compound, consistent with the minimum collocation accommodation requirements of Section 2-4. The 8' tall fence with three strands of barbed wire exceeds the minimum required 6' tall fencing around the tower compound.

The tower has a proposed height of 300' with a 15' lighting rod. Per the Wireless Telecommunications Facilities Ordinance ("Wireless Ordinance") a tower may exceed 199' in height with the granting of a waiver by the Board of Commissioners with the required technical justification. The applicant has provided such justification in the application. Per the Wireless Ordinance, towers greater than 100' are subject to a setback of 50% of the Wireless Support Structure tower height or the engineered fall zone, whichever is greater. The engineered fall zone of the proposed tower is 200', which exceeds 50% of the tower height. The proposed location of the tower is compliant with the setbacks of the revised site plan dated May 30, 2014.

The proposed tower will comply with the FCC's lighting requirements and will be constructed of galvanized steel, gray in color, consistent with the Wireless Ordinance.

The proposed tower is located on the northern portion of the parcel that is not wooded and proposes a continuous all-season perimeter landscaping compliant with the

landscape requirements of the Wireless Ordinance. During the quasi-judicial public hearing Ms. Kemerait stated that the tower will be required to have a flashing white light during that day and a red light pulse at night, specifically referred to as a dual lighting system of red lights (L-864) for nighttime and medium intensity flashing white lights (L-865) for daytime and twilight use. Additional information regarding the lighting system has been provided by the applicant's attorney as part of the Sufficiency Review response and is labeled "Dialight" Beacon Tower Lighting Information. The attorney also added that the Federal Aviation Administration (FAA) prohibits the scattering of light and the proposed tower will be equipped with highly controlled light beam patterns, resulting in no "ground scatter" of light.

Regarding the proposed color of the tower, the applicant's attorney entered into the record that the FAA has issued a Determination of No Hazard to Air Navigation. As a result, the FCC will not require the tower to be painted and the applicant is willing to enter into a condition requiring the tower to remain galvanized steel and gray in color.

As required by ordinance, the applicant held a community meeting April 29th, 2014. The applicant notified adjoining property owners by mail of the meeting and only the applicant attended the meeting. The community meeting report is provided in the application.

An interdepartmental staff review of the application was completed during the May 14th TRC meeting. Comments received included the requirement that the site receive an E911 address prior to building permit, per the E911 Addressing Office. Additionally, a blue line stream was apparent to the eastern property line near the proposed tower on the subject property and per Environmental Quality staff, a revised site plan was requested to show the proposed tower in relation to these features. A revised site plan was received May 30th, 2014 with the stream feature identified with a 50' buffer and not within proximity of the proposed tower.

The applicant also provided the following supplemental information that is not required of the Wireless Telecommunications Facilities Ordinance: Radio Frequency Maps, RF Letter of Justification, RF Engineers FCC Compliance Assessment, Property Impact Assessment, Impact on Emergency Services, Construction Schedule, and an FAA Determination of No Hazard and Lighting Report. Please note this information is supplemental in nature and was not required by ordinance.

A Wireless Telecommunication Permit application must meet the required five findings as required by the Conditional Use Permit standards of Section 17 of the Chatham County Zoning Ordinance. Those findings are addressed as follows:

FINDING #1 – The use requested is among those listed as an eligible conditional use in the district in which the subject property is located or is to be located. The proposed tower is located on a parcel within the unzoned portion of the county. However, telecommunication towers are regulated by the Wireless Telecommunications Facilities Ordinance, which requires a Wireless Telecommunication Permit approval

processed in accordance with the standards for granting Conditional Use Permit set forth in the Chatham County Zoning Ordinance. Therefore the use requested is listed as an eligible conditional use in the district the subject property is located.

FINDING #2 – The requested conditional use permit is either essential or desirable for the public convenience or welfare. It is Planning Staff’s opinion that this finding can be supported. The applicant states the proposed tower will provide convenience, safety, efficiency, as well as connectedness for the community. Presently there is little if any wireless service in the subject area and a publicly communicated need for additional wireless coverage.

FINDING #3 – The requested permit will not impair the integrity or character of the surrounding or adjoining districts, and will not be detrimental to the health, safety, or welfare of the community. It is Planning Staff’s opinion that this finding can be met due to the galvanized steel, gray color of the tower, the minimized lighting impact on the landscape and will support the emergency communications needs for the community.

FINDING #4 – The requested permit will be consistent with the objectives of the Land Use Plan. This request meets the recommendations of the Land Conservation and Development Plan Policy Objective #7: *Preserve both the form and function of rural character- the landscape.* The proposed tower is at such a height, that fewer of these towers will be required across the landscape, therefore preserving the rural character of Chatham County. This request is also consistent with Policy Objective #12: *Provide infrastructure in ways that support the land use, economic development and environmental objectives:* this proposed utility will support rural home-based businesses and encourage economic development.

Planning staff recommends approval of the waiver request, as required by Section 2-4 (6) to exceed 199’ in height based on the technical justification provided by the applicant and the Public Hearing Record; staff recommends approval of the cell tower site with the following conditions:

Site Specific Conditions

1. The tower shall be gray in color, constructed of galvanized steel.
2. Approval from NCDOT on the relocated commercial driveway must be obtained and a copy presented to the Planning Department before the issuance of the first building permit for the new structures.
3. At least one wireless tenant that intends to locate on the proposed tower must be identified at the time of building application. If a wireless tenant is not identified, then the building permit shall not be issued.

Standard Site Conditions

4. The application, standards and adopted regulations of the applicable ordinances and policies, and the approved recommendations as provided for and/or conditioned, are considered to be the standards as set forth and shall comply as

stated. Changes or variations must be approved through the Planning Department or other approving board before any such changes can take place. These include but are not limited to landscaping, lighting, signage, parking, building construction, wireless facility abandonment and removal, etc.

5. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Erosion & Sedimentation Control, Environmental Health Division, Stormwater Management, Building Inspections, Fire Marshal, etc.) shall be obtained, if required, and copies submitted to the Planning Department prior to the initiation of the operation/business.
6. A building permit must be obtained and remain valid at all times within 2 years from the date of this approval or this permit shall become null and void.

Standard Administrative Conditions:

7. Fees - Applicant and/or landowner shall pay to the County all required fees and charges attributable to the development of its project in a timely manner, including, but not limited to, utility, subdivision, zoning, and building inspections.
8. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditions listed above.
9. Non-Severability - If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
10. Non-Waiver - Nothing contained herein shall be deemed to waive any discretion on the part of the County as to further development of the applicant's property and this permit shall not give the applicant any vested right to develop its property in any other manner than as set forth herein.

Board discussion followed.

Ms. Karen Kemerait, attorney, and the property owner were present for questions. Ms. Kemerait spoke briefly.

Motion to approve:

Mr. Glendinning made a motion; seconded by Mr. Crawford to recommend approval of Pleasant Hill Site with waiver request and Site Specific, Standard Site and Standard Administrative Conditions. No further discussion and motion passed unanimously (9 members).

6. A Wireless Telecommunication Permit request by American Tower Corporation and AT&T Mobility for a portion of Parcel No. 10519, known as the Gum Springs Site, located off of White Smith Rd., near Henderson Tanyard Rd., for a 300' self-supported telecommunications tower on a lease area of approximately 0.45 acres of the 43.72 acre tract and is within the Hadley Township. The application includes a waiver request to exceed 199' in height pursuant to Section 2-4 of the Wireless Telecommunication Facilities Ordinance.

Ms. Pace reviewed agenda notes for proposed cell tower on parcel number 10519 known as the Gum Springs Site. A quasi-judicial public hearing was held on this request May 19th, 2014. Planning staff presented the request. The applicant's attorney, Nick Robinson presented the application. The applicant's attorney covered the application, required findings of fact, and answered questions from the Board and staff. Several public comments were received. Of the public comments received, many were in support of the tower, citing a need for wireless coverage in the area. However, many were concerned with the potential "ground-scatter" of the red, pulsing light at night and sought clarification from the applicant as to the exact impact of the lighting. During the public hearing, the applicant answered questions about the height of the tower, as the project includes a waiver to exceed 199' in height. The Ordinance requires technical information or other justification to document the need for the additional height request. The following information was submitted into the record, in addition to the project application, for the waiver justification:

- When asked what the coverage distance for a 300' tower, the applicant's attorney responded 4-5 miles. The applicant's attorney did not enter into the record the coverage distance for a 199' tower. The applicant's attorney later clarified that 300' towers are generally spaced five miles apart and 195' towers are generally spaced three miles apart.
- The applicant provided radio frequency maps to illustrate the proposed coverage of the 300' tower.

Please note that pursuant to NCGS § 153A-349.52 (c), A county may not require information that concerns the specific need for the wireless support structure, including if the service to be provided from the wireless support structure is to add additional wireless coverage or additional wireless capacity.

The subject parcel is 43.72 acres within the unzoned portion of the county and is located in the WS-IVPA watershed district and the Jordan Lake watershed, which allows non-residential development, provided it does not exceed 36% built upon area. The proposed wireless tower site is well under this threshold with a total site disturbance of 19,602 sq. ft. The applicant has provided a map indicating the tower site is not within a Major Wildlife Area and is not within 1.5 miles of an existing tower. Both maps are included in the sufficiency review response dated May 1st, 2014.

Access to the tower site is from White Smith Road and the applicant will obtain a driveway permit from NCDOT as required. The proposed access drive is 30' in easement width, with a 12' graveled access drive. The Fire Marshal has indicated this access road width, in addition to the vehicle turnaround depicted, is acceptable for emergency services.

The tower is proposed to be a 300 foot self-supported lattice tower with a 15' lighting rod. The tower will include an AT&T antenna and space for three other wireless providers both on the tower and within the fenced compound, consistent with the

minimum collocation accommodation requirements of Section 2-4. The 8' tall fence with three strands of barbed wire exceeds the minimum required 6' tall fencing around the tower compound.

The tower has a proposed height of 300' with a 15' lighting rod. Per the Wireless Telecommunications Facilities Ordinance ("Wireless Ordinance") a tower may exceed 199' in height with the granting of a waiver by the Board of Commissioners with the required technical justification. The applicant has provided such justification in the application.

Per the Wireless Ordinance, towers greater than 100' are subject to a setback of 50% of the Wireless Support Structure tower height or the engineered fall zone, whichever is greater. The engineered fall zone of the proposed tower is 250', which exceeds 50% of the tower height. The proposed location of the tower is compliant with the setbacks as stated in the application.

The Wireless Ordinance also requires a line of sight diagram showing the proposed tower from at least four different directions within the surrounding area. The applicant has provided this diagram, along with a balloon test illustrating the height.

The proposed tower will comply with the FCC's lighting requirements and will be constructed of galvanized steel, gray in color, consistent with the Wireless Ordinance.

The proposed tower is located on western portion of the parcel that is heavily wooded. The tower will be located within the wooded portion of the lot and proposes a continuous all-season perimeter landscaping compliant with the landscape requirements of the Wireless Ordinance.

The applicant's attorney stated that the tower will be required to have a flashing white light during that day and a red light pulse at night. Information was provided by the attorney regarding the effect of light "ground-scatter" at night and stated that the neighborhood residents should "detect little, if any, light from the tower". Staff also inquired as to the feasibility of adding a bottom shield to the light fixture to reduce downward projecting light from the tower, to which the attorney stated the lighting technology used for the towers prevents the "scattering" of light, lighting shields are not necessary for the towers. The applicant's attorney has since provided the following information regarding the lighting required for the tower: a dual lighting system of red lights (L-864) for nighttime and medium intensity flashing white lights (L-865) for daytime and twilight use.

Regarding the proposed color of the tower, the applicant's attorney entered into the record that the Federal Aviation Administration (FAA) "American Towers is rarely required by the FAA to paint a 300' tower and is only required to do so when in close proximity to an airport. American Tower believes it extremely unlikely that the tower will have to be painted". The Chatham County Wireless Ordinance section 2-4 8 (a) (ii) states that the desired color is gray and Towers with alternating patterns are not

permitted unless required by the Federal Communications Commission (FCC) or FAA. The applicant has since clarified that the FCC will not require the tower to be painted and the applicant is willing to enter into a condition requiring the tower to remain galvanized steel and gray in color.

As required by ordinance, the applicant held a community meeting April 1st, 2014. The applicant notified adjoining property owners by mail of the meeting and a total of three citizens attended the meeting. The community meeting report is provided in the application.

An interdepartmental staff review of the application was completed during the April 16th TRC meeting. Comments received included the requirement that the site receive an E911 address prior to building permit, per the E911 Addressing Office. Additionally, a blue line stream and isolated wetland were apparent on the subject property and per Environmental Quality staff, a revised site plan was requested to show the proposed tower in relation to these features. A revised site plan was received May 1st, 2014 with the stream feature and associated 50' buffer and isolated wetland not within proximity of the proposed tower.

The applicant also provided the following supplemental information that is not required of the Wireless Telecommunications Facilities Ordinance: RF Map, RF Letter of Justification, RF Engineers FCC Compliance Assessment, Property Impact Assessment, Impact on Emergency Services, Construction Schedule and an FAA Determination of No Hazard and Lighting Report. Please note this information is supplemental in nature and was not required by ordinance.

A Wireless Telecommunication Permit application must meet the required five findings as required by the Conditional Use Permit standards of Section 17 of the Chatham County Zoning Ordinance. Those findings are addressed as follows:

FINDING #1 – The use requested is among those listed as an eligible conditional use in the district in which the subject property is located or is to be located. The proposed tower is located on a parcel within the unzoned portion of the county. However, telecommunication towers are regulated by the Wireless Telecommunications Facilities Ordinance, which requires a Wireless Telecommunication Permit approval processed in accordance with the standards for granting Conditional Use Permit set forth in the Chatham County Zoning Ordinance. Therefore the use requested is listed as an eligible conditional use in the district the subject property is located.

FINDING #2 – The requested conditional use permit is either essential or desirable for the public convenience or welfare. It is Planning Staff's opinion that this finding can be supported. The applicant states the proposed tower will provide convenience, safety, efficiency, as well as connectedness for the community. Presently, there is little if any wireless service in the subject area and a publicly communicated need for additional wireless coverage.

FINDING #3 – The requested permit will not impair the integrity or character of the surrounding or adjoining districts, and will not be detrimental to the health, safety, or welfare of the community. It is Planning Staff's opinion that this finding can be met due to the galvanized steel, gray color of the tower, the minimized lighting impact on the landscape and additional support for emergency communications needs for the community.

FINDING #4 – The requested permit will be consistent with the objectives of the Land Use Plan. This request meets the recommendations of the Land Conservation and Development Plan Policy Objective #7: *Preserve both the form and function of rural character- the landscape.* The proposed tower is at such a height, that fewer of these towers will be required across the landscape, therefore preserving the rural character of Chatham County. This request is also consistent with Policy Objective #12: *Provide infrastructure in ways that support the land use, economic development and environmental objectives:* this proposed utility will support rural home-based businesses and encourage economic development.

Planning staff recommends approval of the waiver request, as required by Section 2-4 (6) to exceed 199' in height based on the technical justification provided by the applicant and the Public Hearing Record; staff recommends approval of the cell tower site with the following conditions:

Site Specific Conditions

1. The tower shall be gray in color, constructed of galvanized steel.
2. Approval from NCDOT on the relocated commercial driveway must be obtained and a copy presented to the Planning Department before the issuance of the first building permit for the new structures.
3. At least one wireless tenant that intends to locate on the proposed tower must be identified at the time of building application. If a wireless tenant is not identified, then the building permit shall not be issued.

Standard Site Conditions

4. The application, standards and adopted regulations of the applicable ordinances and policies, and the approved recommendations as provided for and/or conditioned, are considered to be the standards as set forth and shall comply as stated. Changes or variations must be approved through the Planning Department or other approving board before any such changes can take place. These include but are not limited to landscaping, lighting, signage, parking, building construction, wireless facility abandonment and removal, etc.
5. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Erosion & Sedimentation Control, Environmental Health Division, Stormwater Management, Building Inspections, Fire Marshal, etc.) shall be obtained, if required, and copies submitted to the Planning Department prior to the initiation of the operation/business.

6. A building permit must be obtained and remain valid at all times within 2 years from the date of this approval or this permit shall become null and void.

Standard Administrative Conditions:

7. Fees - Applicant and/or landowner shall pay to the County all required fees and charges attributable to the development of its project in a timely manner, including, but not limited to, utility, subdivision, zoning, and building inspections.
8. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditions listed above.
9. Non-Severability - If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
10. Non-Waiver - Nothing contained herein shall be deemed to waive any discretion on the part of the County as to further development of the applicant's property and this permit shall not give the applicant any vested right to develop its property in any other manner than as set forth herein.

Board discussion followed.

Ms. Karen Kemerait, attorney, spoke briefly on behalf of the applicant. Ms. Kemerait stated that AT&T considers this site to be one of their critical new sites that they call the back bone of their network and have received numerous complaints from motorist and local residents.

Motion to approve:

Mr. Glendinning made a motion; seconded by Ms. Kelly to recommend approval of Gum Springs Site with waiver request and Site Specific, Standard Site and Standard Administrative Conditions. No further discussion and motion passed unanimously (9 members).

VIII. SUBDIVISIONS:

1. Request by Wade Barber for subdivision final plat review and approval of Henderson Place at Farrington, consisting of 45 lots on 60.12 acres, located off S. R. 1835, South Langdon, Williams Township, parcel #'s 19333 and 88196..

Ms. Richardson reviewed the agenda notes for final plat review and approval of Henderson Place at Farrington, this property is adjacent to Farrington Village. The project was reviewed under the pre-2008 Subdivision Regulations and Watershed Ordinance. Henderson Place received sketch design approval from the Board of County Commissioners on July 16, 2007 for 48 lots with the two following conditions:

1. The applicant shall prepare an environmental impact assessment and have it reviewed by the Environmental Review Board prior to preliminary plat submittal.
2. The applicant shall provide a 100 foot buffer along the common boundary with Bradford Place.

Condition # 1 was met. Based on the EIA, several changes were made to the development plan as listed on the preliminary plat notes dated October 7, 2008. Condition # 2 was met. The 1994 Watershed Protection Ordinance required a 50 foot wide water hazard area along the stream feature. The developer voluntarily added an additional 50 foot buffer for a total of 100 feet along the common boundary with Bradford Place, Lots 1 -- 8. The additional 50 feet is part of the lot, and is not deducted from the useable lot area, but is to be a no build area to remain natural and wooded for a total width of 100 feet.

Preliminary plat approval was granted on October 20, 2008 for 45 lots with the two following conditions:

1. Prior to any land disturbing activity, the Chatham County Historical Association be allowed to visit the site to document any evidence of historical nature.
2. The developer shall consult with NCDOT to determine the width and length of "public drainage easements" requested by NCDOT and label the balance of the drainage easement "private".

Both conditions have been met.

The Permit Extension Act of 2009 extended the final plat submittal sunset date to January 1, 2015. The property is not part of the Fearington Planned Unit Development and standard setbacks will apply to each lot.

An on-site stream determination was conducted on the property prior to preliminary plat approval. A portion of the stream feature along the common boundary with Bradford Place was determined to be a perennial / intermittent stream and transitioned to an ephemeral feature along Lots 9 –11. Because the project received sketch design approval in 2007 the ephemeral feature was not required to be buffered. The developer volunteered to provide a 100 foot wide 'stream protection building setback' along Lots 9 – 11. During the on-site review an intermittent water feature was found along the southernmost boundary that was not shown on the USGS Topo map. A 50 foot wide 'stream protection building setback' was added along the intermittent portion of this feature. The 50 foot buffer per side of the feature is allowed to be included in the useable lot area, but is to be a no build area. The developer has provided a 50 foot wide perimeter setback that does not allow structures and is to remain naturally wooded and will be regulated by the private covenants.

The developer is requesting final plat approval for 45 lots to be served by county water and the Fearington WWTP. The final plat request includes a request for a financial guarantee for the completion of required infrastructure. Per the engineer, Alan Keith, Diehl & Phillips, P. A, the development is currently 40.4% complete. The developer has stated that an updated cost estimate letter will be provided prior to final plat review by the Board of Commissioners and that he expects to have additional work completed and will provide certification from the engineer at that time that the roadway is accessible to emergency vehicles.

The plat meets the requirement of the Subdivision Regulations.

The Planning Department recommends granting final plat approval of “Henderson Place at Fearington” as submitted and recommends granting the request for a financial guarantee with the following conditions:

1. The plat not be recorded until the county attorney has approved the form of the financial guarantee and contract.
2. The plat not be recorded until the engineer has certified that the roadway is accessible to emergency vehicles and confirmation has been received from the fire marshal.

Board discussion followed.

Mr. Wade Barber, developer, and Mr. Dan Sears, landscape architect, were present for questions.

Motion to approve:

Mr. Glendinning made a motion; seconded by Mr. Wilson to recommend approval of Henderson Place at Fearington final plat review and approval with the following conditions:

1. The plat not be recorded until the county attorney has approved the form of the financial guarantee and contract.
2. The plat not be recorded until the engineer has certified that the roadway is accessible to emergency vehicles and confirmation has been received from the fire marshal.

No further discussion and motion passed unanimously (9 members).

2. Request by NNP-Briar Chapel, LLC for subdivision preliminary plat review and approval of Briar Chapel Granite Mill Boulevard Revision, located off SR-1528, Andrews Store Road, and Granite Mill Boulevard, Baldwin Township, parcel #'s 87469 and 2714.

Ms. Richardson reviewed the agenda notes for preliminary plat review and approval of Briar Chapel Granite Mill Boulevard revision. This request is for a preliminary plat revision for the realignment to the intersection of Granite Mill Blvd and Boulder Point Drive in Briar Chapel as currently shown on Plat Slide 2011, Pages 47 and 48. Along with this request, the applicant submitted a request to Chatham County for the closing and abandonment of this same section of right-of-way. A public hearing was held on the request at the June 16th Board of Commissioners meeting. Nick Robinson, Attorney for Briar Chapel, spoke and requested the ordinance closing and abandoning the right-of-way which will be adopted at the August BOC meeting not be officially signed until the applicant is ready to move the water line and abandon the right-of-way. The road has not been taken over for maintenance by NCDOT, therefore an abandonment of state maintenance is not required.

Per Randy Drumheller, Development Construction Manager, Chatham County Schools, the school administration is agreeable with the road realignment. A portion of the

realignment area is owned by the County of Chatham. Both parties, Briar Chapel and County of Chatham have signed the preliminary plat application. The realignment will provide 9 additional parking spaces on the school property. It is the intent of the applicant to have the work completed during the time that school is out for the summer break. The realignment will make Granite Mill Blvd a continuous roadway instead of an intersection with Boulder Point Drive eliminating previous concerns by the Fire Marshal regarding whether the turning radii for emergency vehicles was adequate and eliminating a 4- way intersection making a safer travel-way. The road name Granite Mill Blvd will be extended to the intersection of Briar Chapel Parkway and will then transition to the road name Boulder Point Drive at the 3 way stop. Staff has received confirmation from NCDOT that the revised construction plans have been reviewed and approved; and confirmation from Rachael Thorn, Chatham County Erosion Control Officer, that the plans and permit are in order for erosion control for the road realignment. The water lines currently within the existing public road right-of-way will remain unchanged at this time. Per the applicant, the future Phase 11 preliminary plat request will include the relocation of the water lines to the new road right-of-way for Granite Mill Blvd. Per Leonard McBryde, Chatham County Utilities Director, this is acceptable and at the time the water line is relocated, then a revised permit from the state and from Chatham County Utilities will be required.

The Planning Department recommends approving the request by NNP-Briar Chapel, LLC for subdivision preliminary plat review and approval of Briar Chapel Granite Mill Boulevard Revision, for realignment to the intersection of Granite Mill Blvd and Boulder Point Drive in Briar Chapel.

Board discussion followed.

Mr. Nicholas Robinson, attorney, spoke briefly on the behalf of the applicant, stating the applicant will create nine (9) parking spaces at the school and that the school was in agreement with the realignment.

Motion to approve:

Mr. Galin made a motion; seconded by Mr. Crawford to recommend approving the request by NNP-Briar Chapel, LLC for subdivision preliminary plat review and approval of Briar Chapel Granite Mill Boulevard Revision, for realignment to the intersection of Granite Mill Blvd and Boulder Point Drive in Briar Chapel. No further discussion and motion passed unanimously (9 members).

3. Request by Lee Bowman, Project Manager on behalf of NNP Briar Chapel, LLC for subdivision final plat review and approval of NNP Briar Chapel LLC, Phase 5, Revision Plat, located off SR-1528, Andrews Store Road, Baldwin Township, parcel # 89197.

Ms. Richardson briefly reviewed the agenda notes for a revision of final plat review and approval for NNP Briar Chapel, LLC Phase 5. This request is for approval of the dedication of 10 additional feet of public road right-of-way along Pokeberry Bend Drive and Owen Towne Road increasing the total width of right-of-way from 40 feet to 50 feet. The dedication of right-of-way includes the parallel parking spaces that were

constructed on the east side of Pokeberry Bend Drive. Staff received an e-mail from Justin Richardson, NCDOT, stating "NCDOT has reviewed the revised plats for Phase 5 N in Briar Chapel and concur with the changes."

The Planning Department recommends granting the request for approval of the dedication of 10 additional feet of public road right-of-way along Pokeberry Bend Drive and Owen Towne Road increasing the total width of right-of-way from 40 feet to 50 feet as shown on plat titled "NNP Briar Chapel LLC, Phase 5, Revision Plat".

Board discussion followed.

Mr. Nicholas Robinson, attorney, was present for questions and briefly spoke on behalf of applicant.

Motion to approve:

Mr. Wilson made a motion; seconded by Mr. Arthur to recommend granting the request for approval of the dedication of 10 additional feet of public road right-of-way along Pokeberry Bend Drive and Owen Towne Road increasing the total width of right-of-way from 40 feet to 50 feet as shown on plat titled "NNP Briar Chapel LLC, Phase 5, Revision Plat". No further discussion and motion passed unanimously (9 members).

Regular Meeting adjourns at 8:04 p.m.

PUBLIC HEARING: Speakers limited to three (3) minutes each.

VIII. 4. Request by KC2 Enterprises, LLC & I-3, LLC for subdivision First Plat review and approval of Carolina Crossings, consisting of 20 lots on 73.23 acres, located off Hwy 751, Williams Township, parcel #60710.

Ms. Richardson read the request from both projects.

Mr. Richard Vickers (Mrs. Lorraine Vickers present) 3916 NC Hwy 751, Apex, adjacent property owners to parcel number 60710, spoke of his concerns with the project that included run-off water, water levels dropping in private wells and sewer run off into his private pond, safety issue with his private pond, and traffic flow. Mr. Vickers would like the developer to provide a fence at the property line to prevent any safety hazards related to his pond. (Copy of concerns on file with July 1, 2014 minutes)

VIII. 5. Request by The Retreat on Haw River, LLC for subdivision First Plat review and approval of The Retreat on Haw River Conservation Subdivision, consisting of 393 lots on +/- 650 acres, located off SR-1711, Bynum Ridge Road, Baldwin Township.

There were no requests to speak at this time.

Public Hearing adjourn at 8:17 p.m.

4. Request by KC2 Enterprises, LLC & I-3, LLC for subdivision First Plat review and approval of Carolina Crossings, consisting of 20 lots on 73.23 acres, located off Hwy 751, Williams Township, parcel #60710.

Ms. Richardson reviewed the agenda notes for first plat review and approval of Carolina Crossings. The zoning of the property is R-1 and the lots will be served by private wells and septic systems and repair areas. The subdivision process consists of four (4) main

steps: Concept Plan, First Plat, Construction, and Final Plat review. The applicant has completed the Concept Plan review along with their community meeting. The property is within the joint Cary/Chatham planning area in the very low density designation. Planning staff has notified the Cary Planning Department of the proposed project.

This request is for First Plat review and approval of Carolina Crossings Subdivision, consisting of 20 lots on 73.23 acres, located off Hwy 751. The Subdivision Regulations, Section 5.2 C (4) states “During a First Plat review, the first Planning Board meeting shall include a Public Hearing to receive comment on the proposed subdivision.” Item (b) states “Following the Public Hearing, the Planning Board shall review the proposal, staff recommendation and public comments and indicate their recommendation for approval, disapproval or approval subject to modifications. If the Board recommends disapproval or approval subject to modifications, the necessary reasons or modifications will be specified in the minutes of the meeting.” The Board has two (2) meetings to act on the proposal.

The roadway will be built to public, state road standards and the lots will be served by individual wells and septic systems. A soil scientist report prepared by David E. Meyer, L. S. S., Protocol Sampling Service, Inc. was submitted to Thomas Boyce, Chatham County Soil Specialist and Soil Scientist for review to verify that each lot will have adequate soil for either a county approved septic system and repair area or for a system approved by the NC Division of Water Quality. Mr. Boyce reviewed the report and stated that it was adequate.

The developer held a Community Meeting on March 10, 2014 at Martha’s Chapel Church with 12 people attending. The purpose of the community meeting is to receive input from the community on the project. The Subdivision Regulations states “The First Plat is the point at which the applicant submits the detailed proposal to the county for review and approval by the Planning Board and Board of Commissioners. Approval of the First Plat allows the applicant to complete the engineering necessary to receive all required permits and submit the Construction Plan to the Planning Department for approval.” The Technical Review Committee consisting of county staff met on April 16, 2014 to review the project. There were general questions about the project, but no concerns.

Due to the number of lots, the developer was required to provide General Environmental Documentation regarding the property to the Environmental Quality Department for review and approval. After review of the documentation, Natalie Landry, Environmental Quality Inspector, approved the report on June 4, 2014. She noted that “any Allowable uses and Allowable with Mitigation uses in the protected riparian buffers will require a Buffer Authorization from Chatham County. In Addition, all permits for wetland and stream impacts from NCDWR and the US Army Corps of Engineers will need to be obtained prior to receiving approval from Chatham County for a Grading Permit and Land Disturbing Permit.”

An on-site riparian buffer review was conducted by Environmental Services, Inc. and a report of the findings was furnished to Natalie Landry, Chatham County Environmental Quality Inspector. Two perennial streams requiring a 100 foot, undisturbed buffer per side, 1 ephemeral feature requiring a 30 foot wide undisturbed buffer per side, and 4 wetlands requiring a 50 foot per side undisturbed buffer were identified. These features

and their associated buffers are shown on the First Plat. Two stream crossings for the roadway will be required and Lot 20 will require a driveway access crossing. These crossings may require a Buffer Authorization from Chatham County and a Section 404/401 Permit for the proposed activity from the Division of Water Resources and the US Army Corp of engineers. If required, the Authorization and permits will be required to be furnished with the Construction Plan. One stormwater pond will be required and is shown on the First Plat. A Stormwater Permit will be required to be submitted with the Construction Plan submittal.

The Chatham County Emergency Operations Office has approved the road name 'Carolina Crossings Drive' for submittal to the Board of County Commissioners for approval.

On June 17, staff and two Planning Board members visited the site. The site has been selectively timbered in the past and is currently wooded with pines and some hardwoods. There is an existing house and two outbuildings on the property that will be removed. The house was built in 1933 per tax records. The structures do not appear to be of historical significance. The developer has stated that to their knowledge, there are no cemeteries or other historical structures located on the property. The Chatham County Historical Association has been invited to visit the site to view the structures to determine if there is anything historically significant that can be removed or documented before the structures are demolished.

The Planning Department recommends granting approval of the road name 'Carolina Crossings Drive' and recommends granting First Plat approval of Carolina Crossing as submitted.

Board discussion followed.

Mr. Mark Ashness, P.E., CE Group, was present and stated the average lot size is 3.5 acres. Mr. Ashness addressed several items or concerns property owners or board members had. This included concerns such as water quality ponds and run offs, lots 18 & 19 with septic, and turn lanes for traffic flow. He also stated only a portion of lot 1 will drain to Mr. Vickers pond and that this subdivision is a low impact subdivision because it is one (1) unit per every 3.5 acres.

Ms. Rachel Mitchell had concerns with the turning lanes and Mr. Ashness answered her question about how the turning lane will be constructed.

Motion to approve:

Mr. Wilson made a motion; seconded by Mr. Glendinning to recommend granting approval of the road name 'Carolina Crossings Drive' and granting First Plat approval of Carolina Crossing as submitted. No further discussion and motion passed by vote of 8-1 (Copeland opposed).

5. Request by The Retreat on Haw River, LLC for subdivision First Plat review and approval of The Retreat on Haw River Conservation Subdivision, consisting of 393 lots on +/- 650 acres, located off SR-1711, Bynum Ridge Road, Baldwin Township.

Ms. Richardson reviewed the notes for first plat review of The Retreat on Haw River Conservation Subdivision. This property had a previous approval in 2005 for a rezoning and at that time was rezoned to CU-RA90 Residential –Agricultural CU District. Earlier in the meeting the board discussed a request for rezoning the area to its original zoning of R-1 (Residential-1) and R-5 (Residential-5). In the previous approval (2005) a sketch plan consisting of 185 lots was approved by the BOC and on September 17, 2007 the BOC approved a final plat for 67 lots. The prior approval will be eliminated with the approval of The Retreat on Haw River Conservation Subdivision.

This request is for First Plat review and approval of The Retreat on Haw River Conservation Subdivision consisting of 393 lots on +/- 650 acres with a community amenity center including a trail system.

The subdivision process consists of four (4) main steps: Concept Plan, First Plat, Construction, and Final Plat review. The applicant has completed the Concept Plan review along with their community meeting. The community meeting was held on April 7, 2014 at the law office of Bradshaw and Robinson located in the Hall-London House, 128 Hillsboro St., Pittsboro, NC 27312. Eighteen (18) people attended the meeting. A discussion on various items were discussed e.g. walking trails, streets lights, boundary fence, will park be open to public, will there be low income housing component, lot density, average lot size, and cemetery protection.

Water source will be public and sewer source will be a newly constructed private waste water treatment plant.

Review: The subdivision request is reviewed under the current Subdivision Regulations, the Watershed Protection Ordinance, the Soil Erosion & Sedimentation Control Ordinance, and the Stormwater Management Ordinance. All ordinances and regulations regarding subdivision and development of land are required to be met. Staff completed the sufficiency review of the project on May 30, 2014.

Section 7.7 of the Subdivision Regulations, **Conservation Subdivision – Alternative Standards for Development** states in part “As an alternative to conventional layouts, Chatham County encourages the preservation of large, contiguous blocks of land.....When a project voluntarily preserves Conservation Space in accordance with this Section, a project can increase the number of units that would be allowed on the overall property by ten (10) percent. Calculations of the density bonus shall be based on the applicable underlying land use regulations(s) dictating allowable development density.” A Conservation Subdivision requires that a minimum of 40% of the project area be retained as Conservation Space. A minimum of 80% of such Conservation Space shall be Natural Space and a maximum of 20% of the Conservation Space may be Open Space. Per the Project Summary, the developer anticipates that 66% of the project area (includes voluntary green space), +/- 430 acres, will be in Conservation Space versus the required 40%.

Public Hearing: A public hearing on the request is required per the Subdivision Regulations, Section 5.2 C (4)(a) “During a First Plat review, the first Planning Board meeting shall include a Public Hearing to receive comment on the proposed subdivision.” Item (b) states “Following the Public Hearing, the Planning Board shall

review the proposal, staff recommendation and public comments and indicate their recommendation for approval, disapproval or approval subject to modifications. If the Board recommends disapproval or approval subject to modifications, the necessary reasons or modifications will be specified in the minutes of the meeting.” The Board has two (2) meetings to act on the proposal.

Density Calculations: A density calculation sheet has been provided by the developer, attachment 4. The land required to be protected within a Conservation Subdivision under other regulatory provisions, i.e. riparian buffers and floodplain, is 34.8 acres in the R-5/River Corridor and 91.54 acres in the R-1/WSIV-PA area. See the density calculation sheet for a breakdown of net land available in each district and calculations of density. The maximum density allowed (based on allowable units in R-1 and R-5 zoning districts) is calculated to be 422 lots, however, the developer is proposing 393 lots. The impervious surface calculation for the project is 15.0%.

Natural Space: 80% of the Conservation Space is required to be Natural Space. Approximately 258 acres will be Natural Space. The Conservation Space Guidelines states “Natural space is unimproved land in its naturally occurring state, or preserved to regenerate to its naturally occurring state, unaltered by human activity, and preserved to maintain or improve the natural, scenic, ecological, cultural, hydrological, or geological values of an area.” Conservation Area & Buffer Widths map shows the designated Natural Space, Open Space, and Buffer/Green Space.

Open Space: A maximum of 20% of the Conservation Space may be Open Space which is approximately 51 acres. The developer is designating only 6.45 acres of the Conservation Space as Open Space. The ‘Conservation Guidelines’ state “Open space, as defined in the Subdivision Ordinance, allows amenities such as recreational uses and some non-intrusive common uses (e.g. when land application is not the preferred means of wastewater disposal, community septic systems are allowed in Open Space areas). Open space should be located as close to proposed development as practicable, taking into account considerations such as public safety and soil suitability.”

Per the developer, additional area designated as ‘Green Space’ is also being voluntarily provided by the developer. This is area that is considered Open Space that is not subject to the conservation guidelines. It is area being voluntarily left open by the developer beyond the minimum Open Space requirements and consists of +/- 169 acres. The applicant anticipates both active and passive recreation to occur in the Green Space.

Ownership / Management of Conservation Space: Section 7.7 (G) requires that a management plan for the Conservation Space be submitted to and approved by the County Attorney. Ownership of the Conservation Space and Green Space has not yet been determined. Possible beneficiaries of the Conservation Space include Chatham County (possibly for use as a mostly passive park area), conservation organization, the

Homeowners' Association or a combination of these entities. Per Section (G) "Upon initial approval of the management plan by the County, changes to the plan shall be allowed only when approved by the County Board of Commissioners." Section (H) requires that the Conservation Space shall be protected in perpetuity by a binding legal document that is recorded with the deed upon review and approval by the County. Prior to final plat recordation, the county attorney shall review and approve the form of the Management Plan, the Declaration of Covenants and Restrictions, and the deed for the Conservation Space.

Environmental Impact Assessment: Due to the number of lots, an Environmental Impact Assessment was required to be submitted and peer reviewed. The EIA, dated April 2014, was prepared by David Gaaney, Soil & Environmental Consultants, P. A. and peer reviewed by Froehling & Robertson, Inc. The response to the peer review comments, prepared by CE Group is also included. Per the EIA, Section 3.12.2, the Buttercup Phacelia, a federal species of concern and state listing as rare, was found to exist within the project boundaries of the site. The confirmed population acreage is approximately 117 acres within the project boundaries. The existing approved plan for The Retreat proposed an impact of 66 acres of the confirmed population. The newly revised site plan will only impact 39 acres of the confirmed Phacelia population, conserving an additional 27 acres above and beyond the existing approved plan. Another 30 acres of habitat containing sporadic Phacelia populations within Pokeberry Creek Floodplain will also be protected and will encourage further spreading of the species within the project boundaries (in total 78 acres preserved).

Water Features: The water features are shown on the First Plat Site Plan and in more detail on the map showing the Conservation Area and Buffer Widths, attachment #11. The on-site riparian buffer review was conducted by Soil and Environmental Consultants, P. A. and peer reviewed and approved by Natalie Landry, Chatham County Environmental Quality Inspector. The buffer widths range from 30 feet per side to 100 feet per side.

Trail System: A trail system, as part of the amenity, is shown on the site plan. All trails are located outside of riparian buffers.

Access: Lots are to be accessed by public, state maintained roadways and private alleys. Tom Bender, Chatham County Fire Marshal reviewed the plans and recommends 'No Parking' signs is posted on one side of streets to allow better emergency vehicle access. Private roads/alleyways will be required to meet the Fire Code requirements for access. Mr. Bender advised that T-turnarounds need to be provided at the end of any dead end roads and that roads should be accessible to emergency vehicles during construction.

Road Names: The Chatham County Emergency Operations Office has approved the following roads names for submittal to the Board of County Commissioners for approval:

River Retreat Ln, West Chapel Creek Dr., East Chapel Creek Dr., Swift Creek Place, Indian Pointe Lane Herons Ridge Ln., Live Oak Way, South Haw Bluffs Dr., River Refuge Place, Saddle Creek Dr, Kingfisher Ln., Camp Ridge Trail, Sanctuary Ridge Dr., Island River Place, West Pasture Lane, Canoe Trail, Headwaters Trail, Drakes Meadow Ln, Frontier Woods Trail, Birch Bank Way, North Haw Bluffs Dr., and Lambeth Park Ln.

Water / Sewer: Public water will be provided by Chatham County. Sewer service will be provided by construction of a private WWTP which is proposed to only serve this residential project. The Proposed Tertiary Treatment Facility with Storage and Reuse Spray Application – Soil / site evaluation report, was dated May 15, 2014.

Lots: the 393 lots are all proposed for single family residential use. There is no minimum size for lots in a Conservation Subdivision; however the lot size is required to be adequate to provide for minimum setbacks and any required infrastructure or services. As shown on the site plan, the lots are clustered on the eastern side of Pokeberry Creek. There are two (2) non-residential lots proposed, one for the WWTP, and one for a pump station.

Phasing: The developer has provided a development schedule which states “It is anticipated that the development will be done in two phases (with sub-phases). The last final plat will be applied for by December 31, 2028.

Historical Structures: Areas of archaeological or historical value are addressed in the EIA. Per the EIA “Two structures are documented by SHPO within the proposed Retreat at Haw River site. These structures are the Bynum-Lambeth House and the Snipe House. Both structures are designated by SHPO as Surveyed Only, and currently are not on the Study List, National Register, or Determined Eligible list.” The Snipe House has been deconstructed and the Bynum-Lambeth house is still standing, but, will be removed during construction. Per the developer, they are not aware of other structures 50 years or older on the property. Two cemeteries have been reported to be located on the property. One cemetery (Bynum E80.1) was located south of the pond and is shown on the site plan. The other cemetery (Bynum-Slave E80.2) has not been located and may have been disturbed beyond recognition. *Discovery of historically-significant structures or cemeteries after First Plat approval that may alter the overall design or layout of the subdivision will require the Construction Plan to be reviewed and approved by the Board of Commissioners.*

The developer has met with Bev Wiggins, Chatham County Historical Association and provided access to Ms. Wiggins and others to the Bynum-Lambeth house to document its historical value and preservation potential. Ms. Wiggins has stated in an e-mail dated June 15, 2014, that in the opinion of the Historical Association, the archaeological survey done in 2005 for the original development project was not adequate and that she has requested that the developer have another survey completed to better determine if there may be areas of Native American artifacts that have yet to be discovered and that the property, because it contains Pokeberry Creek and borders the Haw River is an

area likely to be rich in archaeological resources. Pictures of the Bynum-Lambeth house are attached to the e-mail. The Historical Association is an advisory board.

The Technical Review Committee consisting of county staff reviewed the project on May 14, 2014. The developer, Scott Munday, Crescent Resources, was present along with Mark Ashness, P. E., CE Group, Nick Robinson, Attorney, David Gainey, Soil Scientist were present to answer questions from staff. There were no major concerns from staff.

The Planning Department recommends granting approval of the road names River Retreat Ln, West Chapel Creek Dr., East Chapel Creek Dr., Swift Creek Place, Indian Pointe Lane Herons Ridge Ln., Live Oak Way, South Haw Bluffs Dr., River Refuge Place, Saddle Creek Dr, Kingfisher Ln., Camp Ridge Trail, Sanctuary Ridge Dr., Island River Place, West Pasture Lane, Canoe Trail, Headwaters Trail, Drakes Meadow Ln, Frontier Woods Trail, Birch Bank Way, North Haw Bluffs Dr., and Lambeth Park Ln. and approval of the request for First Plat approval of **The Retreat on Haw River Conservation Subdivision** with the following conditions:

1. The subdivision request approval be contingent upon approval of the zoning request as follows: A request by The Retreat on Haw River, LLC to rezone Parcels 3027, 87217, 86946, 81274, and 86878 – 86944, from CU-RA90 to a split zoning district consisting of R-1 Residential for lands outside the River Corridor area and R-5 Residential to lands within the River Corridor, being approximately 650 acres collectively, located off Bynum Ridge Rd.
2. Prior to final plat recordation, the county attorney shall review and approve the form of the Management Plan, the Declaration of Covenants and Restrictions, and the deed for the Conservation Space.

Board discussion followed.

Mr. Nicholas Robinson, attorney, spoke briefly on behalf of applicant. Mr. Robinson stated he considered this to be an astonishing and amazing project and proposal by The Retreat on Haw River, LLC. He explained that the original project in 2005 was proposed to have a total of 185 lots that covered the entire property up to the river and the edge of Pokeberry Creek. The current plan shifts all of the lots away from the river, including natural heritage area, and pulls lots away for Pokeberry Creek. Sixty-six percent of the 650 acres is being placed into conservation areas. He also stated that there may not be another subdivision like this in the state and this is something Chatham County should be proud of. Lots of time and effort has been put forward in this project by the developer. Chatham County has been offered the conservation area for a park. If the county doesn't accept the offer, the land will be offered to another agency.

Mr. Mark Ashness, P.E., CE Group, was present and answered general questions from the board.

Motion to approve:

Ms. Wright made a motion; seconded by Mr. Arthur to approve the application as submitted with conditions. No further discussion and motion passed unanimously (9 members).

X. NEW BUSINESS:

No new business.

XI. PLANNING DIRECTOR'S REPORTS:

- Minor Subdivisions / Exempt Maps – Mr. Sullivan stated spreadsheet was provided in the packet.

XII. BOARD MEMBER ITEMS:

1. Land Use Plan Study Committee Update:

Mr. Bienvenue stated there was a meeting and asked Ms. Kelly to report the findings from the meeting. Ms. Kelly stated they didn't come to any conclusion. Chair Copeland asked if this sub-committee should be dismissed and the Land Use Plan Study sub-committee was released.

2. Unzoned Areas of the County Sub-Committee Update:

Chair Copeland stated that several projects in the unzoned area of the county have raised concern about the lack of land use regulations in those areas and the Commissioners requested input from the Planning Board. The subcommittee met and reviewed a report prepared by staff outlining options available to the county. The committee wants the citizens to be involved during the process and they came up with four options. The Unzoned Areas of the County Sub-Committee recommends to the Planning Board four options for consideration, including public input, to be recommended to the Board of Commissioners.

Options are as follows:

1. Extend zoning with an open use district
2. Adopt stand alone heavy industrial use ordinance
3. Extend Traditional Zoning
4. No Action at this time

Board discussion followed.

Motion to approve:

Mr. Galin made a motion; seconded by Ms. Wright to recommend to the Board of Commissioners the four options regarding land use regulation with emphasis on public input.

Board discussion followed.

Question the motion:

By Mr. Wilson

Board discussion followed.

Motion to approve:

No further discussion and motion passed by vote of 8-1 (Arthur opposed).

XII. ADJOURMENT:

There being no further business, the meeting adjourned at 9:44 p.m.

_____/_____
B.J. Copeland, Chair Date

Attest: _____/_____
Kimberly Tyson, Clerk to the Board Date