



## Chatham County Planning Board Minutes April 5, 2016

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:

George Lucier, Chair  
Caroline Siverson, Vice Chair  
Bill Arthur  
B. J. Copeland  
Stacey Curtis  
Jim Elza  
Tony Gaeta  
Gene Galin  
Allison Weakley

Absent:

Brian Bock  
Cecil Wilson

Other: Diana Hales, County Commissioner Liaison

Planning Department:

Jason Sullivan, Planning Director  
Lynn Richardson, Subdivision Administrator  
Hillary Pace, Planner II  
Angela Birchett, Zoning Administrator  
Dylan Paul, Planner I  
Kimberly Tyson, Clerk to the Board

- I. INVOCATION AND PLEDGE OF ALLEGIANCE:  
Mr. Copeland, delivered the invocation and afterwards invited everyone to stand and recite the Pledge of Allegiance.
- II. CALL TO ORDER:  
Chair Lucier called the meeting to order at 6:30 p.m.
- III. DETERMINATION OF QUORUM:  
Chair Lucier stated a quorum was present to begin the meeting (9 members were present at this time).
- IV. APPROVAL OF AGENDA:  
No changes were proposed and the agenda was considered approved as submitted.
- V. APPROVAL OF CONSENT AGENDA:  
Minutes approved as written.

## VI. PUBLIC INPUT SESSION:

Fifteen-minute time of public input. Speakers limited to three minutes each.

1. Trish Lauer, 66 Glen Eden Court, Chapel Hill, NC had concerns about future development along Manns Chapel if Opus Financial property is rezoned commercial.
2. Caroline Enickel representing Cathy Rubens in repealing Section 3.4.2 of the Chatham County –Town of Cary Joint Land Use Plan. The section establishes a 400 foot undisturbed buffer adjacent to the Corps of Engineers property for public utilities utilized for areas south of the Lewter Shop Rd. and Martha’s Chapel Rd. The 400 foot buffer is on top of an established Corps of Engineers buffer which was established to provide watershed protection. The additional 400 foot buffer covers up to eighty percent (80%) of some properties making them undevelopable.
3. Cathy Rubens, 969 Luther Rd., Apex, NC had concerns about the additional 400 foot buffer that’s making her property undevelopable.

## VII. SUBDIVISIONS:

1. **A request by Sears Design Group, P. A.** on behalf of Fitch Creations, Inc. for subdivision Final Plat review and approval of Fearrington P.U.D., Section X, Area B – “Millcreek Circle”, consisting of 29 lots on 12.71 acres, located off S. R. 1813, East Camden, Williams Township, parcel #18998.

Ms. Richardson reviewed the agenda notes for Millcreek Circle final plat. Fearrington PUD was originally approved in 1976 as a Planned Unit Development with a master plan allowing mixed uses and has continued to develop over time. Fearrington has 1602 approved residential units, including Galloway Ridge. With approval of Millcreek, there will be 173 residential units remaining.

Fearrington PUD is reviewed under the pre-2008 Subdivision Regulations and 1994 Watershed Ordinance. The project is exempt from the Chatham County Stormwater Ordinance, but is not exempt from the Jordan Lake Buffer requirements. The project is subject to the Soil Erosion and Sedimentation Control Ordinance. In 2010 the Board of County Commissioners granted approval of a sketch design revision to a 1999 PUD plan revision. The 1999 plan revision included all the remaining undeveloped land within the PUD. In 2012 the Board of County Commissioners granted approval of another sketch plan revision to the 2010 PUD plan. Section X, Area B – “Millcreek Circle” received preliminary plat approval on July 21, 2015.

The final plat request is being submitted with a request for a financial guarantee for the completion of required infrastructure. As of the submittal date, the engineer, Alan Keith, P.E., certified that the project was 74% complete. An updated cost letter will be submitted prior to final plat recordation. It is estimated that the project will be more than 90% complete at that time. Staff recommends that the request for a financial guarantee be granted. The developer has provided open space that includes a buffer overlaying an existing trail along Millcroft. There is a stream located within the project that is within the open space. Staff recommends the lot numbers on the final mylar be shown to be consecutive and that the ‘public utility easements’ shown on the plat be changed to ‘private’ outside the distance normally

maintained by NCDOT. Per the surveyor, Van Finch, a private sewer easement will be added to the final mylar between Lot 4410 and Lot 4412. The Technical Review Committee met on March 16 to review the project. There were no concerns from the TRC.

The Planning Department recommends granting the request for a financial guarantee and recommends granting final plat approval of Fearington P.U.D. Section X, Area B-Millcreek Circle with the following conditions:

1. Lot numbers shown on the final mylar shall be consecutive.
2. The final mylar, the utility easement shall be labeled as 'private' outside the distance normally maintained by NCDOT.
3. Prior to recordation of the final plat, the county attorney shall approve the form of the contract and financial guarantee.
4. Prior to final plat recordation, staff shall receive certification from the engineer that the roadways are accessible to emergency vehicles and the Fire Marshal has approved.

General discussion followed.

Mr. Dan Sears, P.E. was present for any questions and briefly spoke.

Motion – Passed:

Mr. Copeland made a motion, seconded by Mr. Elza to approve as submitted. No board discussion followed. Motion passed unanimously.

2. **A request by F-L Legacy Owner, LLC** for subdivision Preliminary Plat review and approval of The Legacy, Phase 3A1, consisting of 30 lots on 16.01 acres, located off S. R. 1716, Big Woods Road, Williams Township, parcel #17378.

Ms. Richardson reviewed the agenda notes for The Legacy, Phase 3A1, consisting of 30 lots on 16.01 acres. Reviewed under the pre-2008 Subdivision Regulations the Legacy at Jordan Lake Subdivision was approved by the Board of County Commissioners on March 15, 2004 as a Planned Unit Development for a cluster development. Modifications were made to the plan in 2005 to add 50.6 acres and change the number of lots to 463. The project is approved for 463 lots on 626 acres with an amenity center. Phase One received final plat approval in December, 2005 for 105 lots. Phases Two and Three, consisting of 114 lots received preliminary / final plat approval in 2006 (54 lots in Phase Two and 60 lots in Phase Three). In 2011, the developer submitted a request to the Board of County Commissioners to relinquish the final plat approvals for Phases Two and Three (undeveloped); to recombine the 114 lots with the remaining undeveloped portion of the property into one parcel of land containing 402 acres; and to allow Phases Two and Three to revert to their approved preliminary plat status as of November 20, 2006. The BOC approved the request on November 7, 2011.

The Resolution Accepting The Voluntary Relinquishment of Final Plat Approvals of The Legacy at Jordan Lake, Phases Two and Three is recorded in Book 1593, Page 272. The recorded recombination plat can be viewed at Plat Slide 2011, Pages 199 & 200 and at Plat Slide 2012, Page 10. The Resolution stated that the recreation fees and the water availability fees previously paid by the developer would be retained by the county and credited toward any similar fees incurred by the developer in future submittals until December 31, 2015 or any later date required by an amendment to the Permit Extension Act.

Status of project to date:

- Phase 1 consisting of 105 lots received final plat approval in 2005
- Phase 2 consisting of 54 lots received final plat approval in 2013
- Phase 3 received preliminary plat approval in 2006
- Phase 4, 5, & 6 have sketch plan approval
- Phase 4A1 received final plat approval for 32 lots on October 19, 2015
- Phase 5A received preliminary plat approval for 57 lots on April 20, 2015
- Phase 5A1 consisting of 35 lots received final plat approval on September 21, 2015

*As part of a 2014 CUP revision, the final plat sunset date for all phases is December 31, 2020.*

This request is for a revision to a portion of the 2006 preliminary plat for Phase 3. As stated above, Phase 3 received final plat approval in 2006; however, in 2011 the developer requested that the final plat be relinquished and that Phase 3 be allowed to revert back to its preliminary plat approval status. No lots had been sold in Phase 3 and no development had occurred. The Board of Commissioners approved the request. Attachment # 2 are copies of the 2006 preliminary plat for Phase 3. See 2006-498. Attachment # 3 shows the modifications being made at this time to the approved preliminary plat layout.

The 2006 Erosion Control Approval and the 2006 Water Main Extension Permit expired two years after issuance. The developer submitted a new Erosion Control Plan, attachment # 6, to the Chatham County Soil Erosion and Sedimentation Control Office for review for the entire Phase 3 area. A Letter of Approval was issued March 4, 2016. The developer also submitted a new water main extension plan for Phase 3A1, attachment # 5, to the NCDWR, Public Water Supply Section and received an Authorization to Construct, dated February 8, 2016. The Pressure Sewer Extension Permit dated October 26, 2006 does not have an expiration date. The preliminary plat modifications did not require a revision to the Sewer Extension Permit. The project is

not subject to the Chatham County Stormwater Ordinance; however, the developer has submitted a copy of the stormwater plans to Rachael Thorn, CPESC, Land & Water Resources Supervisor. The plans meet the pre-2008 state stormwater requirements.

The road name High Woods Ridge has been previously approved by the Board of Commissioners.

The Technical Review Committee reviewed the request on March 16, 2016. Mark Ashness, P. E. was present to explain the modifications and answer questions. Discussion included the future realignment of the balance of Phase 3 and language to be added to the final mylar regarding a public water easement for Chatham County.

The Planning Department recommends granting preliminary plat approval to The Legacy, Phase 3A1 with the following condition:

1. Language be added to the final mylar as follows: The private road also serves as a private utility easement and a public water easement for the Chatham County water system. Chatham County will not be responsible for restoring private infrastructure (wastewater system components, streets, sidewalks, curb and gutter, landscaping, etc.) in the course of repairing the public water system.

General discussion followed. Why wasn't the subdivision under current Watershed Ordinance? Ms. Richardson stated it's a Pre-2008 project. Why was there a recombination of the land? Mr. Mark Ashness, P.E. addressed this question and others.

Motion – Passed:

Mr. Arthur made a motion, seconded by Mr. Gaeta to approve as submitted. No board discussion followed. Motion passed unanimously.

VIII. ZONING:

1. **A request from Darren Eck dba Villa Giallo** for a conditional use permit for a Bed and Breakfast Inn with no more than six rooms for rent and as further defined in the Chatham County Zoning Ordinance. The property is located at 4352 Pea Ridge Road, New Hill, NC, Parcel No. 5772, Cape Fear Township.

Ms. Birchett reviewed the agenda notes for Darren Eck dba Villa Giallo for a conditional use permit. A quasi-judicial public hearing was held on January 19, 2016, Board of Commissioners meeting.

The Planning Board reviewed the request on February 2, 2016, at this meeting Mr. Eck stated his main focus was to use his home as a Bed and Breakfast Inn and would remove the barn for events as this was the item adjacent property owners were most concerned about. The Planning Board thought that was a reasonable compromise and requested Planning staff to consult with the county attorney to have the public hearing re-opened so the adjacent landowners would have notice of the change.

Planning staff presented the request and updated the Board at the new public hearing on March 21, 2016. The Board was updated on what had changed with the application. The applicant was present at the Board of Commissioners meeting and also reconfirmed that his main request is to be approved for the bed and breakfast inn and therefore he has removed the barn, lighting, and parking from the site plan associated with that structure. Three adjacent landowners spoke and expressed concerns about his stewardship of maintaining the property, possible negative effects to property values, and what the expected noise levels would be if a guest of the bed and breakfast inn held a wedding or other similar gathering on the property.

In reviewing and considering approval of a Conditional Use Permit, the Board shall find that all of the following stated Findings of Facts shall be supported. The Findings are:

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. R-1 Residential Districts allow for a conditional use permit for a Bed and Breakfast Inn to be applied for as stated in Section 10.13 of the Zoning Ordinance. The definition, as included in Section 7 of the Ordinance, states that a Bed and Breakfast Inn is a “Small owner-operated businesses where usually the owner lives on premises but is not required to do so. The building's primary usage is for lodging of overnight guests and meals served in conjunction with the stay of guests. Inns advertise, have business licenses, comply with government ordinances, pay all appropriate taxes and post signs. The inn may host events such as weddings, small business meetings, et cetera, with up to 6 overnight rooms for rent to overnight guests provided all other local and state requirements are met.”

The owner could operate an Owner-occupied Bed and Breakfast with no more than two rooms/units for rent without requiring a permit from the county.

*It is Planning staff opinion this finding is met based on the regulations and standards outlined in the Zoning Ordinance.*

Finding 2 – The requested conditional use permit or revision to the existing permit is either essential or desirable for the public convenience or welfare. The applicant has stated his business will be a low-intensity commercial operation that will fit into the existing rural agricultural location and offer a more affordable rate than other similar facilities within the county. The applicant further states this proposal would offer more luxurious accommodations and venues than other less expensive venues in the county.

The applicant stated in the application there were no Bed and Breakfast Inns east of Pittsboro or near Jordan Lake. However, Shady Wagon Farm, which obtained an approval in 2008 as a bed and breakfast, event center, training center, and wedding cake bakery is approximately 1.8 miles south of this proposed location. *Planning staff recently learned the Bed and Breakfast is no longer being utilized but the event venue is.* The Shady Wagon Farm property

was rezoned to Conditional Use Office & Institutional with a conditional use permit for the events venue portion of the property. The Bradford, which is approximately 3.7 miles south of this location, obtained their approval as a bed and breakfast and event center in 2011. The Bradford property was rezoned to Conditional Use Regional Business with a conditional use permit for the Event Venue use. The applicant provided information obtained from “Cost of Wedding” that these venues stay booked, therefore supporting the need for more available options.

*The applicant has removed the event center barn and will focus solely on operating the B & B Inn as defined in the Zoning Ordinance, which still allows events for guests to be held on the property.*

*It is Planning staff opinion this finding is met and complies with the regulations and standards outlined in the Zoning Ordinance.*

Finding 3 – The requested permit or revision to the existing 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. The applicant held a community meeting on November 19, 2015. That report was included in the application packet. Concerns noted were noise, the potential for guests wandering onto neighbor’s property, and the transferability of the CUP.

*It was learned from the Planning Board meeting and with conversations the adjacent landowners had with Planning staff, the biggest concern was the amount of activity that would have been associated with the event center barn and not the B & B Inn. The potential for high activity has been reduced with the removal of the event center barn by the applicant.*

The applicant also presented the proposal to the Chatham County Appearance Commission. A new site plan will need to be submitted showing the removal of the barn, lighting, and parking areas. Any additional landscaping that was recommended will still be required and should be shown on the revised site plan. No signage is being proposed for this plan.

The four adjacent landowners who spoke during the first public hearing were Dennis Chapman, John Collins, Robert Wilson, and Margaret Dey. The concerns stated were the commercial use of the property would not be in keeping with the rural character of the community. Concerns about noise from events, lights, privacy and the potential for trespassing by guests, noting the lot is long but not very wide. At the second public hearing on March 21, 2016, Mr. Chapman, Mr. Wilson and Mrs. Dey spoke noting continued concerns over noise and the level of activity that could be associated with a wedding event for one of the guests. Mrs. Dey stated she felt better about it with the removal of the accessory structure previously proposed.

*It is Planning staff opinion this finding is met based on the regulations and standards of the Zoning Ordinance and as further supported in the recommended conditions noted below.*

Finding 4 – The requested permit will be or remain consistent with the objectives of the Land conservation and Development Plan. The portion of the property the bed and breakfast inn (applicant's home) is located is within the WSIV-Critical Area Watershed where a maximum of 24% impervious surface is allowed. This project would be less than 5%. The rear portion of the property under the WSIV-PA allows for up to 36% impervious surface and no impervious area is proposed in this area.

There are currently three ponds on the property that capture most of the rainfall from the property and may be used in connection with the increased impervious surface should any be needed in order to provide parking for the room rentals. A review from Land and Water resources will be needed if this request is approved.

This application also supports the need to support travel and tourism as stated in the plan by providing an additional venue for services already being sought in this portion of the county.

*It is Planning staff opinion this finding is met based on the regulations and standards of the Zoning Ordinance and further conditions as outlined below.*

Finding 5 – Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary facilities have been or are being provided consistent with the County's plans, policies, and regulations. The site is served by the county water system and will continue to be connected to the system. Private septic is currently used for the residence. Environmental Health will still conduct an evaluation of the system to ensure it will support the B & B Inn and will advise the owner accordingly. For special events associated with guest rentals, the owner may utilize portable restrooms as required by building inspections and environmental health regulations. A special events form must be applied for and approved before any such events should take place on the property in connection with the guest of the B & B.

A preliminary approval has been provided by NCDOT for a commercial driveway permit. The applicant has also obtained a letter from the Department of the Army stating they would not limit the issuance of a commercial driveway permit for the applicant's property. The property does not have direct road frontage but crosses Corps of Engineer's property.

Excess traffic related to the business will be mainly on weekends.

*It is Planning staff opinion this finding is met based on the regulations and standards of the Zoning Ordinance and as further supported by the below conditions.*



Based on the application materials, the testimony provided at the public hearings, and all other information as provided in these findings, it is Planning staff opinion all findings are met and therefore the application should be recommended for approval with the following conditions:

**Site Specific Conditions**

1. Any outdoor events associated with the commercial use of the property for the Bed and Breakfast Inn shall end by 11:00 pm. Temporary lighting shall only be used during an event and shall be turned off within one hour following the end of said event.
2. The recommendations by the Chatham County Appearance Commission shall be followed and implemented at the next optimal planting season.
3. No permanent signage has been approved for the site. Signage regulations in the Zoning Ordinance shall be complied with.
4. Failure to begin the bed and breakfast inn within two years from the date of this approval, shall cause this permit to become null and void.
5. A revised site plan shall be provided to and approved by planning staff prior to starting the B&B Inn.

**Standard Site Conditions**

6. 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.
7. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Land and Water Resources, Environmental Health Division, Building Inspections, Fire Marshal, etc.) shall be obtained, if required, and copies submitted to the Planning Department to the initiation of the operation/business.

**Standard Administrative Conditions:**

8. 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.
9. Continued Validity – The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditional listed above.
10. Non-Severability – If any of the above conditions is held to be invalid, this approval in it's entirely shall be void.

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.

Some board members had concerns with parking, special event permit, noise, lighting and these items were addressed.

Motion – Failed:

Mr. Elza made a motion; seconded by Mr. Gaeta to recommend denial because Findings 2 and 3 aren't met. Brief board discussion followed and motion failed 2-7 (Luicer, Siverson, Arthur, Copeland, Curtis, Galin, and Weakley against)

Motion - Passed:

Mr. Galin made a motion; seconded by Ms. Curtis to approve as submitted. No further discussion followed. Motion passed 7-2 (Elza and Gaeta against).

2. **A request by the Golf Cart Guys, LLC** to rezone Parcel No. 5258 being all of 6.74 acres located at 1213 Pea Ridge Road from R-1 Residential to CD-CB Conditional District Community Business for multiple uses. Uses area golf cart sales, service and rentals; boat, trailer, and other utility vehicle sales and service; and boat and RV storage.

Ms. Birchett reviewed agenda notes for the Golf Cart Guys to rezone parcel 5258 from R-1 to CD-CB. There was a legislative public hearing held on March 7, 2016 where Planning staff, applicant, and project engineer addressed the Board.

Property located on the southwest corner of the interchange of US 1 and Pea Ridge Road. The zoning of the property on the southern property line is heavy industrial and R-1, residential, and R-1 and R-5 residential on the opposite side of Pea Ridge Road and US 1. There is also other industrial zoning in the vicinity of this project site. The property is also located in a River Corridor Special Area watershed district, which allows between 24% and 50% built upon area.

The applicant held the community meeting, as required by the ordinance on December 21, 2015. One adjacent landowners attended the meeting and one sent the applicant an email supporting his proposal. Neither expressed concerns but the one in attendance wanted to know about utilities and the proposed driveway location.

The applicant met with the Chatham County Appearance Commission on December 16, 2015. They recommended approval the landscaping plan and suggested a clearing line be shown on a revised plan so that it is evident what is to be disturbed and what may need supplementing with more plantings as discussed.

In the Zoning Ordinance there are five standard items that the applicant must address when submitting for a rezoning they are as follows:

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. No errors in the ordinance are being claimed.

It is Planning staff opinion this standard is supported as outlined in the zoning ordinance of Chatham County.

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. Many municipalities, including Pittsboro in September 2015, have adopted golf cart ordinances allowing permitted use. The Golf Cart Guys would be the only company in Chatham County to make alterations adding safety features to be compliant for Pittsboro Police inspection. The Golf Cart Guys would also use the property for a small area for boat and RV storage. The site is located south of Jordan Lake on the "Pea Ridge Road /Jordan Lake" off ramp and is in close proximity to both Moncure Dam and New Hope Overlook boat ramps. The site is also close to Harris Lake. This would be a convenient location for boaters and campers in the surrounding areas. With neighborhood HOA's becoming more prevalent and restrictive, these services are in demand.

It is Planning staff opinion this standard is supported based on the standards outlined in the zoning ordinance of Chatham County.

Item #3: The manner in which the proposed amendment will carry out the intent and purpose of any adopted plans or part thereof by encouraging the expansion and support of current business located within the county. Property in this area have been rezoned from residential to non-residential use and the reverted back to residential over the years. The Land Conservation and Development Plan identifies the Moncure-Haywood area as having industrial potential due to the transportation and utility infrastructure. There are several commercial and industrial properties nearby, including 60 acres that was rezoned in 2015 (parcel# 5213) as Light Industrial and is being permitted for a truss manufacturing company (see Zoning Map for reference). Other nearby non-residential parcels are 68322, 5814, 78135, 65327. Being at the off ramp of Hwy US-1, the property is located adjacent to an optimal transportation route, and commercial zoning is suited for this property.

The Land Conservation and Development Plan goes on to encourage the protection of ground and surface water. There is a stream that crosses the property that will be buffered as shown on the site plan. An Environmental Impact Assessment was completed and can be viewed from the Planning Department website. The applicant shifted his project site to the Pea Ridge Road side of the property to avoid impacts to the stream. The applicant does anticipate having to cross the water feature with utility lines for the septic system. There is a wetland also documented on the site which lies within the 100 foot stream buffered area.

To further protect ground water resources, the property is located within the River Corridor Special Area (RCSA). Per the Watershed Protection Ordinance, without curb and gutter the project can develop 36% of the property in impervious surface. The proposed impervious surface for this project is 17.88%.

It is Planning staff opinion this standard is supported based on the standards encourage in the land development plans of Chatham County.

Item #4: The requested amendment is either essential or desirable for the public convenience or welfare. This project will bring a small business and needed revenue to the county in the form of higher property taxes and sales tax. There will be approximately 4-6 employees as they open this new location. The location is strategically located just a few miles from Wake County and Lee County lines; again, increasing the revenues coming into Chatham since they service all areas. A majority of the property fronts Hwy US-1 to the north, Pea Ridge Road to the east, and heavy industrial (ST Wooten Corporation) to the south. This property is not well suited for residential development due to noise from the highway and industrial uses.

It is Planning staff opinion this standard is supported based on the information provided.

Item #5: All other circumstances, factors, and reasons which the applicant offers in support of the proposed amendment include installing a fire hydrant at the entrance into the property at the request of the Chatham County Fire Marshal's office. The property will utilize the county public water system and obtain a commercial driveway permit from NCDOT.

There are two signs proposed for the site. One monument sign, seven feet in height with ground lighting (75 sq. ft.) at the entrance on Pea Ridge Road and one freestanding 150 sq. ft. sign, 30 feet tall at the west end of the property facing US 1 with solar LED top mounted lighting shining down onto sign. The CCAC recommended approval of the signage as well.

Parking lot lighting is proposed to be six (6) pole lights that will comply with the lighting regulations of the zoning ordinance of Chatham County.

It is Planning staff opinion this standard is supported based on the information provided.

It is Planning staff opinion based on all standards being supported that the request be recommended for approval with the following conditions:

#### Site Specific Conditions

1. The recommendations of the Chatham County Appearance Commission shall be followed as recommended. Required plantings shall be installed by the next optimal planting season following the issuance of the first building permit.

2. A building permit shall be obtained and remain valid at all times within two (2) years of this approval or it shall become null and void.

#### Standard Site Conditions

3. 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.

4. 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.

#### 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.

General board discussion followed. Questions or concerns were solar lighting, spill containment measures, and utilities crossing over a stream.

#### Motion – Passed:

Mr. Arthur made a motion; seconded by Mr. Copeland to approve as submitted. Board discussion followed.

Amendment to the motion as made by Mr. Elza, to add a condition that a spill containment be implemented within the project.

#### Motion Amended:

Mr. Elza made a motion; seconded by Mr. Arthur to add a condition that a spill containment be implemented in the proposed project.

Board discussion followed – Ms. Weakley had concerns with the nature of the site, the impervious surface, and the site's use with its potentials for oils and

gasoline near the stream. She stated she wasn't a fan of rezoning for those purposes, unless good measures were being taken to prevent water pollution.

*Motion* passed unanimously.

*Motion Amended* passed unanimously.

*Motion – Passed:*

Mr. Copeland made a motion; seconded by Mr. Arthur the *Consistency Statement:* It is the opinion of the Planning Board that the rezoning request for Parcel No. 5258, being approximately 6.74 acres, is consistent with the goals and objectives of the Land Use Plans of Chatham County by reinforcing that the Moncure-Haywood area is shown as a designated Economic Development Center, specifically for its commercial potential along with access to transportation and infrastructure. Motion passed unanimously.

3. **A request from Nina Staples Lloyd of Opus Financial Advisors** for a conditional district Neighborhood Business for General and Professional Office and Event Center Limited on property located at 4421 Mann's Chapel Road, Baldwin Township.

Ms. Birchett reviewed the agenda notes for property located at 4421 Mann's Chapel Road. A legislative public hearing was held March 7, 2016. Ms. Birchett stated there were several citizens that spoke in opposition and Attorney Cabell Regan presented a petition in opposition from approximately 60 residents from the surrounding community.

This property was originally constructed as a single family dwelling in 1961. Since that time it has been approved for and used for a bed and breakfast inn with associated events such as weddings for the guests of the inn. This use was approved at a time when the Zoning Ordinance allowed B&B Inns as a permitted use and did not require a conditional use permit. The property is approximately 6.05 acres and also has a care takers accessory dwelling on the property. There is also a pergola and restrooms in the rear of the property where the events were held.

Under Conditional District Zoning only the uses that are approve can take place on the property. Ms. Birchett addressed some the concerns that were stated in public input at the beginning of Planning Board meeting. Ms. Birchett stated by law the General Statues of North Carolina the Planning Department have to give notice to the adjacent and joining property owners only. If an applicant chooses to extend farther than the adjacent and joining property owners they may be allowed when the applicant conduct their community meeting, but that's not a requirement by law. A public hearing notice ran in the local newspaper for two weeks and signs posted on the property for the same amount of time.

There are other properties in the area with Conditional Use Zoning and Home Occupation Permits. The applicant has stated there's a lack of general professional office space in the area. Parking area is established, during the on

site visit there were concerns with the lower parking lot. The applicant has agreed to relocate the parking lot if needed. The property will maintain the same character as the bed and breakfast.

A conditional zoning district is not intended for securing early zoning for a proposal, except when that proposal is consistent with an approved land use plan or the proposal can demonstrate that public infrastructure needed to serve the development will be made available within a reasonable time period.

The applicant held the community meeting, as required by ordinance, on September 21, 2015 and a report of that meeting was included in the application packet and is subject to consideration by the Board. Three adjacent landowners attended the meeting and one non-adjacent landowner. Per the report, there was no opposition and discussion focused on an explanation of what the applicant was proposing and the level of activity.

The applicant met with the Chatham County Appearance Commission on October 28, 2015. They recommended approval of the signage, parking, lighting and landscaping plan. Those minutes are available on the Planning website under this rezoning case.

There are five standard items listed in the Zoning Ordinance that must be addressed by the applicant when submitting those items are:

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. No errors in the ordinance are being claimed.

It is Planning staff opinion this standard is supported as outlined in the zoning ordinance of Chatham County and no errors are being claimed.

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. Changing conditions in the area include property that was conveyed by Newland Communities to Chatham County for a civic site, construction of a water tower for Chatham County, the new North Chatham Fire Station, and the conditional district approval for The Parlour event center. The civic site property and water tank are located at the Mann's Chapel Road entrance to Briar Chapel and The Parlour is located at the intersection of Poythress and Lamont Norwood Roads. There are other uses that have been approved in the area such as Hinshaw Music that was approved as a conditional use permit over two decades ago and located approximately 500 feet to the east of this site. There are also some home occupation permits for various uses in the surrounding neighborhoods and in close proximity to this proposed use. The applicant has stated there is a lack of general and professional office space that is available in the area. There are retail and

personal service businesses at the intersection of Mann's Chapel Road and US 15-501 and extending north and south along US 15-501 N.

Residential growth is developing around this area with Briar Chapel, Legend Oaks, and other subdivisions currently under construction. There is also residential development in Orange County that could utilize commercial and business services in this area.

It is customary for accessory and associated functions for an office use to include meetings, employee appreciation events, fundraisers for the company, etc. and these types of events would not be required to be permitted through an event center limited. The primary use of the property is proposed for the general and professional office within the existing structure. The applicants are not proposing to remove the existing structure, but will take efforts to make necessary repairs and improvements to support the office use. The parking areas are already established and new gravel is to be installed if the rezoning is approved. The property will remain virtually unchanged and maintain the same character as was the case for the bed and breakfast inn which was also permitted to hold events on the site for the guests of the B & B. No additional approval or zoning classification was needed for those events to be held.

It is planning staff opinion this standard is supported for the general and professional office use with associated supportive events, but not for Events Center Limited.

Item #3: The manner in which the proposed amendment will carry out the intent and purpose of any adopted plans or part thereof by encouraging the expansion and support of current businesses located within the county. On page 10 of The Land Conservation and Development Plan (the Plan) growth is encouraged that consists of a mix of different types of development. There is little general or professional office space available in this community. The Plan also encourages development that reflects balanced growth where the benefits and burdens are shared. This also includes encouraging commercial development to extend up side roads off major thoroughfares as seen on page 12.

The Plan also addresses Economic Development Centers. The US 15-501 North corridor is specifically mentioned as a link to infrastructure and the ability to build on the economic activity south of Chapel Hill. The property is not identified as an area that is a protected resource or natural conservation area and is maintaining the rural character by keeping the existing look and feel of the property. The applicant is also proposing to repurpose an existing property instead of constructing on a new site. The existing septic system and county water supply will be used so that no new ground disturbance is needed. This helps ensures the character, as it currently is developed, will remain and have no additional impacts on ground and surface waters.

The property is located in a WSII-Balance of Watershed – Jordan Lake Drainage, which is described by the NC Department of Environmental Quality as “waters



[that] are generally in predominately undeveloped watersheds” and are consider High Quality Waters that are “rated excellent based on biological and physical/chemical characteristics.” The WS-II BW watershed district allows for up to 12% impervious surface for non-residential uses on the parcel. The existing layout of the property is currently at 11.64% which limits additional built upon area. The Watershed Protection Ordinance also limits uses within the WS-II BW watershed district and the applicants have submitted a text amendment to that ordinance. The amendment would add the uses proposed with the rezoning application to the list of permitted uses within the WS-II BW watershed district.

The Planning staff opinion is the standards of the Plan are supported.

Item #4: The requested amendment is either essential or desirable for the public convenience or welfare by repurposing an existing structure previously used for a bed and breakfast inn that also was permitted to hold events for guests. The interior of the structure was changed from single family to a bed and breakfast inn by the previous owner. The applicant believes these rooms will easily transition into office space and a conference room for their company. Although the previous use was approved for 70 parking spaces, this project proposed to utilize 21.

Behind the house is a pavilion with two outdoor half bathrooms which was approved by the Chatham County Environmental Health Department and Building Inspections. The Appearance Commission made recommendations for the front of the property and thought the existing vegetation on the side and rear property lines met the intent of the Design Guidelines.

The application notes that the events could include “client appreciation events, financial planning workshops, events to promote financial literacy, and non-profit meetings and/or fundraiser” and “also be available for a fee to other interested parties”. An approval for an Event Center Limited is not needed for the types of gatherings considered accessory to the business, however the other events would require approval of that use as part of the conditional district rezoning. It is not recommended that the Events Center Limited use be approved since it is not necessary for the office to locate on the property and hold events and gatherings associated with the office use. This would prohibit the rental or loaning of the space to other parties that are not associated with operations of Opus Financial.

The office use could fill a void in the area due to the lack of general and professional office space availability. This is also encouraged in the Land Conservation and Development Plan to allow for a mix of uses. The major activity centers are at the intersection of Mann’s Chapel and US 15-501 and along the 15-501 corridor with retail, personal service shops, grocery, banking, etc. These are high intensity activity areas that should be clustered together outside of primarily residential areas. Lower intensity activity areas are encouraged to extend up side roads where residential areas are more prominent. NCDOT has indicated that, as a formality, a new commercial driveway permit would be required due to the change in use.

It is Planning staff opinion that the general and professional office use is essential or desirable for the public convenience, but does not support the Events Center Limited use.

Item #5: All other circumstances, factors, and reasons which the applicant offers in support of the proposed amendment include maintaining the character with the repurposing of the existing structure and keeping the impervious surface at or below 12%. Lighting will be limited in use and signage will be placed in the location of the former sign with added landscaping.

If the applicant had decided to utilize this as their primary residence and live on-site, the use could have been approved through the Home Occupation permit process. This is an administrative approval, if the standards of the Zoning Ordinance can be met, along with other agency inspections and approvals. There are other similar types of neighborhood and rural home occupations such as a counseling service, tax preparation services, small automotive repairs, small scale landscaping contractor, firearms dealers, etc. However, since they are not living on the property, the conditional district rezoning was the option best suited for the request. The use/s would be restricted to what is approved, unlike a general use neighborhood business rezoning which would allow for any of the uses listed in Section 10.13 Table of Permitted Uses table under that category.

The use of the property for general and professional office would be in harmony with the surrounding area based on the information in this application. The use of an Events Center Limited would not be in harmony with the surrounding area based on comments from the community and the increase in activity on the property from events not associated with the office use.

It is planning staff opinion the use for general and professional office is supported, but the Events Center Limited is not supported with the following conditions:

Site Specific Conditions

1. The recommendations of the CCAC shall be followed and required plantings shall be installed by the next optimal planting season following the approval of the request. Additional plantings or other screenings shall also be installed to fill in any areas between adjoining properties where the existing vegetation does not provide coverage for a Type A opaque buffer.
2. A Certificate of Occupancy for the general and professional office use shall be issued within two (2) years of this approval or it shall become null and void.
3. Accessory events associated with the business that involve outside gatherings, shall comply with all lighting, noise, and occupancy permitting and standard requirements.
4. Outside business events shall end by 10pm Sunday through Thursday and 11pm Friday and Saturday.

Standard Site Conditions

5. 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.

6. 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.

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.

Nina Staples Lloyd, applicant, was present and stated there was one person Attorney Regan who spoke in opposition and the other citizens spoke in support of the proposal. Ms. Birchett apologized for stating that several people spoke in opposition and their home office was in Salisbury but is located in Statesville. Ms. Lloyd stated they would plant trees along the back and relocate the parking if this was the wish of the Board. They support several non-profit organizations and would like to have events for their clients and was disappointed that they wouldn't be able to host events. In the watershed text amendment they stated they would not use more than a 4000 square feet building which is the size of the existing building on the property. Ms. Llyod stated they would put in writing that any event would not go past 9:00 p.m. Sunday – Thursday and 10:00 p.m. Friday and Saturday stating their policies for events would be more conservative than the county's current policies.

Ms. Lloyd gave a brief description on Opus Financial stating they give training in areas such as on estate planning, budgeting, and how to apply for your first mortgage.

Board discussion followed about the event center. The board didn't feel comfortable voting before hearing from the Watershed Review Board. Board tabled proposal until the next month meeting May 3, 2016. Mr. Elza asked the applicant to provide the changes of the landscaping e.g. tree planting, berms, lighting this will be placed as a condition. The Board also wanted staff to contact the county attorney and see if the County could limit events to only include non-profit organization the applicant supported

because they liked the idea of a possible venue for these organizations to hold their events. Planning staff agreed to consult with the attorney and findings would be available in the next meeting's agenda notes.

Recess at 8:55 p.m.

Resume at 9:02 p.m.

4. **A request by Cathleen Rubens** to repeal Section 3.4.2 of the Chatham County –Town of Cary Joint Land Use Plan. The section establishes a 400 foot undisturbed buffer adjacent to Corps of Engineers property when public utilities are utilized for a development in the portion of the plan area south of Lewter Shop Road and Marthas Chapel Road.

Mr. Sullivan reviewed the agenda notes on the repeal of Section 3.4.2 of the Chatham County – Town of Cary Joint Land Use Plan (JLUP). July 1, 2012 was when the JLUP went into effect. The Plan is an official policy document adopted by the Chatham County Board of Commissioners and Cary Town Council meant to guide future land use, public infrastructure improvements and development in the Plan Area.

The process requires that applications be submitted to both jurisdictions for consideration and that the County has to make a recommendation prior to the Town taking final action. Approval by both jurisdictions is required for an amendment to be incorporated into the plan. A public hearing was held on March 21, 2016 on the application to repeal section 3.4.2 of the JLUP. Staff provided an overview of the joint plan and five people provided comments. The Town of Cary will hold a public hearing on this request on April 28, 2016.

In 2009, the Chatham-Cary Joint Issues Committee (CCJIC) resumed discussion of the joint plan. An updated plan option was prepared that included a recommendation for a land use designation of 1 dwelling unit per 5 acres for all areas within 1 mile of the normal pool elevation of Jordan Lake or ¼ mile of Corps of Engineers property, whichever was greater. In 2010, one of the property owners adjacent to Corps property surrounding Rocky Ford Branch, a tributary to White Oak Creek, voiced concern about the designation of 1du/5 acre within ¼ mile of Corps property.

Section 3.4.2 was drafted to create a 400' buffer adjacent to Corps property where public utilities were provided. At this time Section 4.1, The Rural Buffer Boundary, was worded as follows "Areas west of the rural buffer boundary should not be eligible to receive public water or sewer, regardless of provider [emphasis added]". When both sections were activated, the 400' buffer would have only applied to areas within the Low Density Residential designation, east of the rural buffer boundary, and only impacted a small number of properties, including the applicant's.

By May 2012 several revisions were made to the joint plan document including a revision to section 4.1, The Rural Buffer Boundary, to delete public water from

the section. This allowed for public water to be provided anywhere within the joint plan area by either jurisdiction. A consequence of the revision is that, when coupled with Section 3.4.2, the 400' buffer was expanded to include all properties adjacent to Corps property south of Lewter Shop Road and Marthas Chapel Road.

During the public hearing, four people spoke in support of the text amendment and comments included the following: that the 400' buffer was in addition to Corps property, which was an established buffer adjacent to Jordan Lake; that the buffer diminishes property values; the buffer covers up to 80% of some properties; that pump stations and private septic systems are allowed in this same area; that it limits future development potential; and that the buffer is not applied uniformly in the joint plan area. One person commented that development in this part of Cary results in the removal of the majority of the vegetation adjacent to Corps property, citing recent construction on Pittard Sears Road, which warrants further discussion of what is an effective buffer. The application also included a petition signed by six people in support of deletion of section 3.4.2.

It does appear that the revisions to the joint plan between 2010 and 2012, specifically sections 3.4.2 and 4.1, expanded the applicable area of the 400' buffer when public utilities area provided. This does warrant further discussion about the distinction between areas north and south Lewter Shop Road and Marthas Chapel Road. The 400' buffer does not apply to areas located north of these roads which could receive public utilities. The Planning Board has up to three meetings to make a recommendation.

Chair Lucier commented he was a little reluctant to start changing stuff on the piecemeal and would like to look at this at the five year review, which is coming up in 2017, where the bigger picture can be looked at. Ms. Weakley agreed. Mr. Elza spoke of concerns with density. Mr. Galin asked how long will the review take and how long the property owner will need to wait.

Ms. Rubens, applicant, spoke of her concerns with the turnaround time of the proposal if she needs to wait until the five year review. She commented it took seven (7) years the last time to finish. Seven (7) property owners are affected that lives near the stream with the 400 ft. buffer which devalue their properties. Ms. Rubens stated 80% of her property is taken by the 400 ft. buffer and she can't sell her property.

Discussion followed about water quality, undisturbed buffer, and reason why Planning Board is involve in this process.

Board decided to table the proposal until May 3, 2016 meeting.

X. NEW BUSINESS: None

XI. BOARD MEMBERS ITEMS:

Mr. Elza gave a handout of Grounds and Facilities for Open Air Sports table of permitted uses.

XII. PLANNING DIRECTOR'S REPORTS:

1. Minor subdivision/exempts maps. Mr. Sullivan stated the update was included in the agenda packets.
2. School of Government Bulletin on Advisory Board Review of Quasi-Judicial – Mr. Sullivan commented the attachment received in packets gave good background information about the quasi-judicial process. It shows how the process is handled and if you are handling them correctly. Chair Lucier commented, because the Planning Board is only supposed to consider the evidence that's represented at the Commissioners' public hearing, it's important that the board members attend. He's going to ask the commissioners if Planning Board members could be allowed to ask questions at the quasi-judicial public hearings and the board members may need to sit in the jury box for this.
3. Manager/Board Roles and Expectation from Board of Commissioner Retreat – Mr. Sullivan briefly reviewed the expectations which was given to board members in the packets. He commented that any request to do work should come from the full board and not the liaison.
4. Comprehensive Plan Update - Ms. Pace give the name of the chair and vice-chair of the Steering Committee, worked with Public Health Department to access Healthy Communities Grant funding, logo design, e-notification online, Mr. Copeland stand down and Ms. Siverson who was the alternate will replace Mr. Copeland and Chair Lucier will be the alternate.
5. Zoning the Unzoned Area Update – Public hearing will be June 6, 2016
6. Census Update – Chatham is one of the fastest growing counties
7. Rock Quarry - Two more applications have been
8. Packet Mailings – If the board want to continue to receive the additional maps in the packets for uniformity the additional maps will be mailed to all.

XIII. ADJOURNMENT: There being no further business the meeting adjourned at 10:14 p.m.

\_\_\_\_\_/\_\_\_\_\_  
George Lucier, Chair                      Date

Attest: \_\_\_\_\_/\_\_\_\_\_  
Kimberly J. W. Tyson, Clerk to the Board                      Date