



Chatham County Planning Board Minutes May 3, 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
Brian Bock
B. J. Copeland
Jim Elza
Gene Galin
Cecil Wilson

Absent:

Stacey Curtis
Tony Gaeta
Allison Weakley

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 6:35 p.m.
- III. DETERMINATION OF QUORUM:
The clerk stated a quorum was present to begin the meeting (7 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:
Minor changes to the minutes. Minutes approved as written.

VI. PUBLIC INPUT SESSION:

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

1. Ted and Marilyn Koenig, 409 Mountain Lane, Chapel Hill, NC, Mr. Koenig stated his questions were answered prior to meeting.
2. Katy and Greg Moore, 159 Mountain Lane, Chapel Hill, NC, stated they had the same questions as the previous speaker.

VII. SUBDIVISIONS:

1. **Request by Lee Bowman, Project Manager, on behalf of NNP Briar Chapel** for subdivision final plat review of Boulder Point Drive Extension on 4.75 acres, Baldwin Township, parcel #'s 87024 and 82828.

Ms. Richardson reviewed the agenda notes for the final plat review of the Briar Chapel Boulder Point Drive Extension. On August 17, 2015 Briar Chapel received preliminary plat approval on a portion of Boulder Point Drive that provided access to the wastewater treatment plant and consisted of 3.58 acres. At that time the roadway section was graded and the travel-way had been graveled. This was considered infrastructure construction and required preliminary plat approval with review and permits from other agencies. Also in 2015, Briar Chapel received preliminary plat approval on Phase 15 North consisting of 50 lots. The access to Phase 15 North was by Boulder Point Drive. The final plat request before the Board now consists of the area of Boulder Point Drive Extension that received preliminary plat approval in 2015 and a portion of Boulder Point Drive as shown on the Phase 15 North preliminary plat approved in 2015. The final plat request consist of 4.75 acres with no residential lots.

Prior to submittal of the preliminary plat for Boulder Point Drive Extension, it was discovered that NNP-Briar Chapel installed two storm drain pipes ten years previously, in 2005, in accordance with NCDENR standards, prior to delegation of the erosion control process to Chatham County.

This request for final plat approval is submitted with a request for approval of a financial guarantee. Chris Seamster, RLA, McKim & Creed, has submitted a cost estimate letter certifying that a minimum of 41% of the required infrastructure has been completed. Per the pre-2008 Subdivision Regulations, a minimum of 40% of the required infrastructure must have been completed prior to final plat submittal and the roadway must be accessible to emergency vehicles. Prior to final plat approval, it is estimated by Mr. Seamster that approximately 76% of the required infrastructure will be constructed. An updated cost letter will be submitted prior to final plat approval along with a sealed letter from an engineer that the roadway is accessible to emergency vehicles. The Planning Department recommends granting approval of the financial guarantee.

The Planning Department recommends granting final plat approval of the plat titled "Right-of-Way and Easement Dedication Plat of Boulder Point Drive for NNP-Briar Chapel, LLC" with the following conditions:

1. The final plat not be recorded until staff has received a sealed letter from an engineer stating the roads are accessible to emergency vehicles.
2. The final plat not be recorded until the county attorney has approved the form of the contract and the financial guarantee.

Lee Bowman, Project Manager, Chris Seamster, P.E., and Nick Robison, Attorney were present.

Brief general discussion followed.

Motion – Passed:

Mr. Arthur made a motion; seconded by Ms. Siverson to approve as submitted with the two (2) conditions. No board discussion followed. Motion passed unanimously.

2. Request by Lee Bowman, Project Manager, on behalf of NNP Briar Chapel for subdivision preliminary plat review of Briar Chapel, Phase 10, consisting of 99 lots, on 19.40 acres, Baldwin Township, parcel #2714.

Ms. Richardson reviewed the agenda notes for the preliminary plat review of Briar Chapel, Phase 10. The roads within Phase 10 will be built to the NCDOT, public state maintained standards. The road plans for Phase 10 have been reviewed and approved by NCDOT. A copy of the road plan permit, dated March 30, 2016 can be viewed on the Planning Department webpage. A commercial driveway permit is not required for Phase 10. There is one (1) private alley in Phase 10. No additional parking is planned for this phase, there will be sidewalks. The site plan shows Hawk Point Road, a proposed public road, stubbed out to the edge of the 100 foot wide Perimeter Buffer. The property owner adjacent in this location is XDS, Inc, parcel #2817, consisting of 38.498 acres. This property is a non-conforming, non-profit, rehabilitation facility and is known as The Farm at Penny Lane. The property has access on Penny Lane, a pre-1975 road bed which limits development and subdivision potential. Staff recommends that Hawk Point Road be shown as a dedication of public right-of-way to the property boundary of XDS, Inc. as required by the pre-2008 Subdivision Regulation. Parcel #2717, owned by Moore Family Partnership consists of 25 acres, and is an undeveloped, landlocked property. Pokeberry Creek runs through both of these properties and does have floodable area along the creek. The existing development on Parcel #2817 is situated close to Penny Lane and not near the creek. Future development of Parcel #2717 may require crossing Pokeberry Creek. Staff was contacted by one of the owners of Parcel #2717 regarding access being provided to the parcel. Based on Section 6.2 (B) of the Pre-2008 Subdivision Regulations stated above, staff recommends that a dedication of public right-of-way be provided to the boundary line of parcel #2717.

The following road names have been approved by the Emergency Operations Office for submittal to the Board of Commissioners for approval: Ryegrass Run Trail and Hawk Point Road. Cardinal Ridge Road, Mallard Landing Drive, and Quarter Gate Trace have been previously approved.

Agency permits required for preliminary plat approval have been received. The permits include the NCDOT Road Plan Approval, the Chatham County Sedimentation and Erosion Control Permit, the US Army Corps of Engineers 404 Permit, the NCDEQ Water Quality 401 Permit, NCDEQ DWQ Wastewater Treatment Permit, NCDEQ Water Main Extension and Authorization to Construct, and the NCDWR Stormwater Permit.

One (1) stormwater pond to serve Phase 10 is shown located within the common area. The NC Department of Environmental Quality, Division of Water Resources approved the Stormwater Plan for Phase 10 on January 19, 2016.

Per the application submittal information, there are no cemeteries within Phase 10 and there are no structures eligible for the National Register with the project area and no structures that are 50 years or older that are not eligible for the National Register.

There is a stream with associated buffers and the required 10 foot no build area in Phase 10 that is located within the common area. The TRC met on April 13, 2016 to review the application for Phase 10. The Fire Marshal stated his continued concerns regarding on-street parking and emergency vehicle access.

The Planning Department recommends granting approval of the road names Ryegrass Run Trail and Hawk Point Road and recommends preliminary plat approval of Briar Chapel, Phase 10 with the following conditions:

1. The final plat shall state the width of the perimeter buffer.
2. The final plat shall state the width of the riparian buffer.
3. The final plat shall state the names, deed book and page numbers of all adjoining property owners to Phase 10 lying outside of Briar Chapel boundary and the phase number(s) of the adjoining properties within the boundary of Briar Chapel.
4. A dedication of public right-of-way shall be shown to the boundary of Parcel #2817 and Parcel #2717 to provide future connectivity as required by the Subdivision Regulations in Section 6.2, Rural Roads, B (3).

Lee Bowman, Project Manager, Chris Seamster, P.E., and Nick Robinson, Attorney were present. Attorney Nick Robinson spoke briefly on behalf of NNP Briar Chapel, LLC. Mr. Robinson explained the road connectivity to both properties and presented a drawing showing one dedication of public right-of-way to the common boundary line of parcels 2817 and 2717.

General discussion followed with asking the developer about lot sizes and distance between structures and how fire protection is handled with the structures being close together; how storms are handled with the 2:1 slopes.

Motion – Passed:

Mr. Galin made a motion; Mr. Copeland seconded to approve as submitted and Condition 4 to have one dedication of right-of-way to access to both parcels 2817 and 2717. Motion passed 7-1 (Elza against).

VIII. ZONING:

1. **A request by Jason & Ashley Rivenbark** to rezone Parcels No. 83841 and No. 83271, being 5.63 acres of Parcel No 83841 and 0.26 acres Parcel No. 83271, located approximately 1/3 of a mile south of the intersection of Pea Ridge and New Elam Church Road, from CD-NB (Conditional District – Neighborhood Business) to R-1 (Residential), Cape Fear Township.

Mr. Paul reviewed the agenda notes for rezoning parcels 83841 and 83271 to R-1. A legislative public hearing was held on April 18, 2016. At the public hearing the applicant stated that the parcels were zoned R-1 prior to 2014. On 05/19/2014, the prior owner had the property rezoned CD-NB (Conditional District – Neighborhood Business) in order to build a boat and RV storage facility. The facility was never built and the applicant now wants the property to revert back to its original R-1 zoning.

This is a general rezoning request, Section 19 of the Chatham County Zoning Ordinance.

1. In response to any alleged error in the Ordinance, if any, which may be remedied by this proposed amendment, the applicant claims 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. The applicant claims that no change will happen to the parcels with the approval of this general rezoning map amendment. The portion of the parcel currently zoned CD-NB was specifically created to allow for the construction of a small boat storage facility, which never took place. All parcels within a 1 mile radius of the parcels are currently zoned R-1, with the exception of a church, mobile home park, and a bed and breakfast. This parcel, and all of those surrounding it, have historically been zoned R-1 and/or have traditionally been used as residential properties.
3. The manner in which the proposed amendment will carry out the intent and purpose of any adopted plans. The area is historically residential (specifically R-1). All nine adjacent or adjoining parcels to this property are currently zoned R-1. Furthermore, the parcels upon which this current CD-NB zoning exists is already nearly 50% zoned R-1.
4. Other circumstances, factors, and reasons which the applicant offers in support of the proposed amendment. A coalition of four adjoining or adjacent property owners initiated this rezoning application with the express desire to remove the CD-NB zoning from this particular property.

It is Planning staff opinion based on all standards being supported that the request be recommended for approval.

Owner wasn't present.

Motion – Passed:

Mr. Copeland made a motion; seconded by Mr. Arthur to approve as submitted. Motion passed unanimously.

Consistency Statement:

It is the opinion of the Planning Board that the rezoning request to rezone Parcels No. 83841 and No. 83271, being 5.63 acres out of the 11.49 acre tract of Parcel No 83841 and 0.26 acres out of the 5.88 acre tract of Parcel No. 83271, is consistent with the goals and objectives of the Land Use Plan of Chatham County. Specifically, the Plan seeks to “preserve both the form and function of rural character” by creating “residential development patterns that retain the *form* of “ruralness” through large lot zoning, open space subdivisions, village clusters, or other design approaches.”

Motion – Passed:

Mr. Copeland made a motion; seconded by Ms. Siverson to approve as submitted.

The following items were tabled from April 5, 2016 meeting.

2. **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. The Planning Board met during their regularly scheduled meeting on April 5, 2016. Since March 7, 2016 public hearing and up to this meeting, several area residents have sent emails supporting the request.

During the April 5, 2016 meeting, Mrs. Lloyd presented alternate conditions on time restrictions for events, landscaping, and parking in order to address concerns from adjacent property owners and Board members. The changes includes relocating the rear parking lot area to the front side yard, placing a Type A landscape buffer between the new parking lot and side property line, and a berm at the rear of property to further protect adjacent landowners.

The Planning Board had a concern as to whether events outside of the corporate sponsored events for Opus Financial could be limited to non-profits only. Mrs. Lloyd stated they support several organizations and want to help them by providing them a meeting or event space for more feasible fees or

free but that they also wanted to be able to market their space for others as well. The Planning Board tabled the request in order for staff to contact the county attorney to determine whether the events center limited use can be restricted to non-profits organizations.

Planning staff received an email from the County Attorney, Jep Rose, who stated it could be problematic limiting uses to only certain groups and not others. His recommendation, should the Board recommend approval, was to have conditions on the number of events allowed, amplified music limits, time limits, etc. The number of people allowed is already limited by the septic system currently approved by the Environmental Health Department which is 177 persons.

The Planning Board also wanted to postpone discussion to allow for the Watershed Review Board to review the text amendment request to add the two proposed uses to Attachment A of the Watershed Protection Ordinance. The WRB met on April 14, 2016 and voted to approve the amendment request with no size limits on buildings/structures. Their reasoning was that the impervious surface limits already restrict how much of the property could be developed.

Previously stated at April 5, 2016 meeting, there were three citizens that spoke in support and Attorney Cabell Regan presented a petition in opposition from approximately 60 residents from the surrounding community. The applicant also presented letters of support from existing clients and the City of Statesville where their home base is currently located. They currently occupy what was previously a two-story single family dwelling in a historical district within the city. One property adjacent to the Statesville office is still used for residential purposes and that resident offered a letter of support.

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.

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 an applicant when submitting a rezoning application.

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 main parking areas have been relocated to the front side yard of the project property based on a revised site plan submitted to planning staff on April 20, 2016. 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 and for the 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, other than the relocation of the rear parking area, is needed. This helps ensure 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 considered 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. With the relocation of the rear parking lot to the front side yard, the Land and Water Resources review shows an even lower BUA than previously shown. 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 applicant has revised the landscape plan to include a new four foot tall landscaped berm and landscaping in between the new parking lot and the side property line to further shield adjacent property owners from view

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 recommended that the Events Center Limited use be approved since it is necessary for the office to locate on the property and hold events and gatherings. This would allow the rental or loaning of the space to other parties that are not associated with operations of Opus Financial.

The office use and events center limited 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 and does support the Events Center Limited use as well.

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 the property as an Events Center Limited is also supported due to the limiting nature of the approved site plan, septic usage, and conditions as noted below.

It is Planning staff opinion this standard is supported based on the intent of the Zoning Ordinance for the general and professional office use and events center limited.

It is Planning staff opinion the use for general and professional office and events center limited is 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. This includes the installation of the berm at the rear of the property and the landscaping between the new parking lot and the side property line as shown on the revised site plan. The existing exterior lighting in the back corner shall also be removed.
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 8pm Sunday through Thursday and 10pm Friday and Saturday and shall not start earlier than 8am per the applicant's request.

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.

Mr. Warren Mitchell, spoke briefly on behalf of Opus Financial about the landscaping and Mrs. Lloyd was present.

Board discussion followed about impervious surface, septic system, and traffic.

Motion – Passed:

Mr. Copeland made a motion; seconded by Mr. Wilson to approve as submitted with conditions. Vote passed by 7-1 (Elza against).

Consistency Statement:

It is the opinion of the Planning Board that the rezoning request for Parcel No. 2516, being approximately 6.053 acres, located at 4421 Mann's Chapel Road is consistent with the goals and objectives of the Land Use Plans of Chatham County by supporting a mix of development that encourages and supports growth in designated economic center areas and extends up side roads, and protects ground and surface waters by limiting ground disturbances.

Motion – Passed:

Mr. Copeland made a motion; seconded by Mr. Wilson to approve as submitted. Vote passed by 7-1 (Elza against).

The following items were tabled from April 5, 2016 meeting.

3. **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 agenda notes stating the request is to amend the Chatham County – Town of Cary Joint Land Use Section 3.4.2. During the April 5th Planning Board meeting there was a request for additional

information regarding 1) density transfers allowed by the Town of Cary and 2) steep slopes and streams in the joint plan area. The Town of Cary Planning Department was contacted and an attachment was provided to the Board with an explanation of the Town's density calculation methods. One of the Planning Board members indicated they could provide additional information about steep slopes and streams. There is also data available on the county GIS website – www.chathamgis.com under the "Environmental Review Data" folder for steep slopes and drainage networks.

Previously stated at April 5, 2016 meeting, the Chatham-Cary Joint Land Use Plan (JLUP) was adopted by the Chatham County Board of Commissioners and Town of Cary Board in June, 2012. It was made effective July 1, 2012. 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. Section 5d of the agreement outlines the process for citizen initiated plan amendments. 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.

Text of the Section 3.4.2:

"Water Quality Buffers Adjacent to Corps Land. Special buffers should be provided adjacent to U.S. Army Corps of Engineers property associated with the Jordan Lake Reservoir, for the portion of the plan area located south of Lewter Shop Road and Marthas Chapel Road. Any future development in this portion of the plan area that is served by public utilities should provide a 400 ft. undisturbed buffer adjacent to Corps property in order to provide additional watershed protection in the White Oak Creek drainage basin."

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 (see attachment 2 - Joint Plan Map #5). 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. The owner suggested using a topographic elevation of 255' as the boundary since there was a significant elevation change from that line to Rocky Ford Branch (see attachment 3 – slides from Feb. 16, 2011 CCJIC meeting). After several additional iterations, the joint plan map was revised to shift the rural buffer boundary and Low Density Residential designation (1du/acre) to the 1 mile boundary from the normal pool elevation

of Jordan Lake, which eliminated the additional ¼ mile boundary from Corps property. To compensate for this the revision on the map, 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.

Discussion followed about flood elevation, Cary's sewer elevation, density, and riparian buffer.

Ms. Caroline Enickel, Attorney, spoke on behalf of Ms. Rubens. Ms. Enickel stated they had their public hearing with Cary and the comments received were favorable of their application.

Ms. Rubens briefly spoke of her concerns.

Board discussion followed, about public utilities, to carry the proposal back through the Town of Cary and Chatham County, and the 400' buffer was unintended consequences.

Motion – Passed:

Mr. Bock made a motion; seconded by Mr. Galin to approve the joint plan amendment to repeal section 3.4.2 of the Chatham County-Town of Cary Joint Land Use Plan. Board discussion followed. Vote passed by 5-3 (Elza, Lucier, Siverson against).

4. **Request by Walt Lewis for The Extra Garage Self Storage Center IV**, to consist of two structures for enclosed building storage facility for dry boat storage and RV storage, located off Beaver Creek Road, parcel #'s 88772 and 17696.

Ms. Birchett reviewed the agenda notes. A legislative public hearing was held on March 21, 2016 for this item. There were four citizens who spoke in opposition to the proposal with concerns about need, lighting, traffic and decreased property values.

Both properties are currently zoned R-1 Residential and are located within the WSIV-Critical Area watershed which limits impervious surface area to a maximum of 24%. Parcel No. 17696 is to be deed restricted as undevelopable area in order to offset the impervious surface limit on Parcel 88772 where the facility is proposed to be located. This is allowed per NCGS 143-214.5(d2) for Water Supply Watershed regulations.

This area of the county has limited soils suitable for septic systems, which makes it more desirable for development of uses such as the one proposed. However, the proposed use must meet all the standards as discussed below.

There are five standard items listed in the Zoning Ordinance that must be addressed by an applicant when submitting a rezoning application.

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. The applicant states in the supporting application that the property has been on the market for at least four years. He stated this was mostly in part to lack of suitable soils for a septic system for a build a home or other business. The applicant

also stated at the public hearing he received no opposition four years ago when he built another facility which is three parcels south from this proposed facility and is also at capacity. He also stated the property was marketed as potential boat and RV storage due to its proximity to Jordan Lake and access to boat launches and campgrounds.

The applicant states due to growth in the areas outside of Chatham County, there continues to be a need for these types of facilities in close proximity to areas that promote tourism and travel; in this case Jordan Lake.

Planning staff has received emails and letters from several citizens, two of whom are adjacent landowners, stating the use is not needed when there are other facilities that have been approved and not yet built (these letters can be viewed on the Planning Department's website). This would include Beaver Creek Storage (under construction) on Beaver Creek Road and Space Station Storage (under construction) on US 64 East. There are approximately six other boat and RV storage facilities within five miles of this location. Two of facilities are owned by the applicant and he has indicated that both are all at capacity.

The applicant also states that having storage facilities close to the lake keeps traffic off the main thoroughfares and reduces risks of traffic related problems. From this facility, patrons could make a left turn out of the facility and then left onto Poplar Point Rd. This would keep some of the boat and RV traffic south of the area that would, in his opinion, have more congestion coming from US 64. When leaving the park area patrons would take a right turn onto Beaver Creek Road and another right turn into the storage facility thus keeping traffic in the opposite direction of the bulk of traffic leaving the lake at this location. However, citizens were still concerned about the increase in traffic from boat owners queuing to make the left turn into Poplar Point after leaving this facility.

It is the opinion of Planning staff the application does not support the standard of need and desirability for additional storage in this area and therefore the standard has not been met.

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. The applicant proposes that the use supports the Land Conservation and Development Plan by locating facilities within the travel and tourism areas such as Jordan Lake. Further support comes by locating these facilities up side roads off major thoroughfares. The current Plan is at best subjective to what supports which types of uses in certain areas of the county especially since there is no map designating official areas for residential and non-residential development. This area has been historically zoned residential and agricultural, which was done in part to protect our water resources. This project can utilize up to 24% built upon area. With the total acreage of 20.55, that means 4.9 acres total can be developed with impervious surface. The tract where the facility is

being proposed is 16.55 acres where he could develop 3.97 acres but is utilizing the general statute provision for density transfers to cover an additional approximately one acre to maximum the available building footprint. It is the opinion of Planning staff this standard may be met by the supporting documentation in the application submittal as it relates to the Land Conservation and Development Plan.

Item #4: The requested amendment is either essential or desirable for the public convenience or welfare by reducing traffic on major roadways and by locating accessory boat and RV storage in close proximity to Jordan Lake, which supports convenience and safety. Those opposing the use stated it was not desirable for the area as there are currently other similar uses within just a few miles of this proposed location. Those in opposition also do not believe this to be essential for the area stating reduced land values as a concern, increased light pollution, and increased traffic congestion stemming from the high peak season activities associated with the recreational facilities at Jordan Lake. A letter from a NC Licensed Real Estate Broker was provided stating that the existing boat storage facility at the intersection of Tody Goodwin and Beaver Creek Roads had negatively impacted the sale of a home at that intersection.

There was also concern over the fueling station being proposed on site. Per the Fire Marshal's office, these types of fueling stations are permitted through their department and must be installed to meet state requirements for installation and containment should there be any spills or leaks. If approved, they are inspected based on a schedule outlined by the NC Department of Insurance. The Land and Water Resources Director has reviewed the proposed fuel storage tank within the WSIV-Critical Area watershed.

There are currently at least two other facilities under construction for this same type of use and one proposing expansion of an existing facility. There are approximately six other facilities of varying sizes within five miles of this site. A gis map has also been provided showing the zoning of the surrounding area. As indicated on the map, the existing non-residential uses are clustered at or near the intersection of Beaver Creek Road and US 64 and one non-residential rezoning at the intersection of Tody Goodwin and Beaver Creek Roads. The proposed rezoning would span approximately .34 miles along Beaver Creek Road with approximately ¼ mile of building façade within 68 feet of the Beaver Creek Road right-of-way. It is staff opinion this rezoning would have a destabilizing effect on the residential uses in the surrounding area.

It is the opinion of Planning staff this standard has not been met due to the already existing approved facilities not yet completed and disruption to neighboring residentially zoned properties. The need for the facility also appears to be driven by boat and RV owners outside of Chatham County and therefore is considered non-essential for this area.

Item #5: All other circumstances, factors, and reasons which the applicant offers in support of the proposed amendment include proposing a use that the applicant deems is not a traffic generator, which may be true when compared to a retail or office type use. Traffic would be limited to four trips in and out of the facility which could be up to 1600 in a day if all slots were full and everyone came to the site on the same day. This is very unlikely to happen so it could be expected to see approximately 400 in a day during peak season.

The actual storage area is internal to the buildings. No storage would be seen from the outside. Access would be by coded gate.

The use does not require the installation or use of county water or other such public facilities and there are no plans for the county to provide sewer service in this portion of the County.

Lights and noise from the facility and headlights were a concern of the adjacent landowners. The use generates limited noise and lighting will be installed on the interior of the structures. The proposal does include internally illuminated signage that will be visible along Beaver Creek Road. Most activity will take place during daylight hours which decreases the amount of disturbances from headlights leaving the facility.

The applicant conducted an Environmental Impact Assessment which was reviewed by the Environmental Review Advisory Commission. No issues were raised with the facility or the accessory fueling station to be installed on the site. The only items noted were adding a notation about areas that will not be disturbed to the site plan and including a comment a fuel storage being above ground with a containment wall.

It is the opinion of Planning staff this standard may be met with the supporting information in the application submittal and due to no complaints being received from any other facility in the county about these uses.

It is the opinion of the Planning staff this request be recommended for denial for reasons of not supporting all the standards as required by the Chatham County Zoning Ordinance Conditional District Rezoning standards.

It is Planning staff opinion the use for a boat and RV storage facility is not supported. Should your recommendation be in support of the proposal, the conditions provided below are requested to be reviewed and also recommended for approval at this time.

Brief Board discussion followed.

Mr. Walt Lewis, owner, was present and spoke about the five standards. He gave the board members a handout with an email in favor of the proposed area, photos of the area, home listing on Tody Goodwin Road stating the home was overpriced, and different views of the road showing where the proposed area and the nearest

resident are located. Mr. Lewis stated that Item #2 in the standards, appears he didn't meet the need of service for the area because there are six other facilities within five miles. Three of the six Mr. Lewis owns and they all are full, as the others are full. Item #4 was another issue where a resident was stating they couldn't sell their home Mr. Lewis stated the home was up for sale during winter months and was overly priced. Item #5 it's a low traffic generator, the lighting and noise the property is design to meet all specifications as required and the goal is to have low impact on neighbors and low impact on traffic. Mr. Lewis stated there was a resident directly across from his other facility and he made sure the resident wasn't impacted by traffic or lighting.

Allan McConnell spoke of his concerns of the applicant continuing to come in with changes as time goes on and stated he and others believe the applicant didn't meet the standards.

Dan Titsworth spoke of his concerns of the lighting, property values, resale of homes, and size of building.

Mr. Lewis briefly spoke about the concerns of Mr. McConnell and Mr. Titsworth.

Broad discussion followed.

Motion – Failed:

Mr. Bock made a motion to approve with the site specific, standard site, and standard administrative conditions. Motion failed for lack of a seconded.

Motion – Passed

Mr. Elza made a motion; seconded by Mr. Arthur to deny the proposal as submitted. Vote passed 7-1 (Bock against and Galin abstain)

X. NEW BUSINESS:

XI. BOARD MEMBERS ITEMS:

XII. PLANNING DIRECTOR'S REPORTS: 3:07

1. Minor subdivision/exempts maps. Mr. Sullivan stated the update was included in the agenda packets.
2. Comprehensive Plan Update - Ms. Pace give a brief update.
3. Zoning the Unzoned Area Update – Public hearing will be June 6, 2016

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

_____/_____
George Lucier, Chair Date

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