

MINUTES
CHATHAM COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING
JANUARY 16, 2007

The Board of Commissioners (“the Board”) of the County of Chatham, North Carolina, met in the District Courtroom, 12 East Street, located in Pittsboro, North Carolina, at 6:00 PM on January 16, 2007.

Present: Chairman Carl Thompson; Vice Chair, George Lucier; Commissioners Patrick Barnes, Mike Cross, and Tom Vanderbeck; County Manager, Charlie Horne; Interim County Attorney, Jep Rose; Assistant County Manager, Renee Paschal; Finance Officer, Vicki McConnell; and Clerk to the Board, Sandra B. Sublett

INVOCATION AND PLEDGE OF ALLEGIANCE

Chairman Thompson delivered the invocation after which everyone was invited to recite the Pledge of Allegiance.

- **CALL TO ORDER**

- The meeting was called to order by the Chairman at 6:05 PM.

- The Chairman encouraged anyone who wished to have an item removed from the Consent Agenda to contact the Commissioner from their district to do so.

- **AGENDA AND CONSENT AGENDA**

The Chairman asked if there were additions, deletions, or corrections to the Agenda and Consent Agenda.

Commissioner Lucier moved, seconded by Commissioner Vanderbeck, to approve the Agenda and Consent Agenda as follows:

1. **Minutes:** Consideration of a request for approval of Board Minutes for regular meeting held January 02, 2007

The motion carried five (5) to zero (0).

2. **Road Names:** Consideration of a request from citizens for the naming of private roads in Chatham County as follows:

- A. N R Goldston Road
- B. This L Do Lane

The motion carried five (5) to zero (0).

3. **Subdivision Preliminary Plat Approval of “The Woods at Wilkinson Creek”:** Consideration of a request by Samir W. Bahho on behalf of Wilkinson Creek, LLC for subdivision preliminary plat approval of “**The Woods at Wilkinson Creek**”, consisting of twenty-three (23) lot on 47 acres, located off SR #1537, Tobacco Road, Baldwin Township

As per the Planning Department and Planning Board (unanimous vote) recommendation, approval of the road names Chelsea Way and Ada Court and preliminary design approval of “**The Woods at Wilkinson Creek**” were granted with the following condition:

1. Prior to final plat submittal, signatures of all Roads End property owners shall be obtained regarding the abandonment of Roads End private easement.

The motion carried five (5) to zero (0).

4. **Subdivision Final Plat Approval of “Windfall Creek – Phase III”:** Consideration of a request by Contentnea Creek Development Company for subdivision final plat approval of “**Windfall Creek – Phase III**”, consisting of seven (7) subdivision lots, 1 exempt lot, and revision of Lot #49 on 50 acres, located off SR #1716, Big Woods Road, New Hope Township

As per the Planning Department and Planning Board (unanimous vote) recommendation, final plat approval of “**Windfall Creek, Phase III**”, was granted with the following condition:

1. The plat shall not be recorded until the County Attorney has approved the financial guarantee.

The motion carried five (5) to zero (0).

5. **Electronic Monitoring Initiative Grant:** Consideration of a request to apply for the Electronic Monitoring Initiative Grant, a copy attached hereto and by reference made a part hereof.

The motion carried five (5) to zero (0).

END OF CONSENT AGENDA

PUBLIC INPUT SESSION

Bill Sommers, 1067 Fearington Post, Pittsboro, NC, named three items that he would like to bring to the attention of the Board of Commissioners for its current and future consideration as follows: 1) Advertisement for a Director of Public Works. He stated that although he endorses the re-creation of a Department of Public Works, he had hoped that, following the suggestions of Commissioner Barnes, the County would have opted for a combined position of County Engineer/Director of Public Works, a position that many progressive, growth-conscious North Carolina counties have already established; that the creation of this position is of great importance in both the short and long range development of the County’s technical capacity to manage its personnel and resources to protect the County and to plan for its future; that it will also, in the near term, gradually reduce the need for a plethora of consulting

engineers whose general devotion to the needs of the County is second only to the fees received; that it is unfortunate that the long-term needs of the County, especially in managing and implementing a variety of increasingly technical operations, were not served by combining the County Engineer and the Director's position into a more productive operation rather than opting for the usual Director of Public Works; 2) The County's Capital Budget Process: The capital budget is a critical part of Chatham's forward planning under the guidance of the Board of Commissioners; that the current document 2007-2011 is divided into two part: General Fund and Water; that the document itself is over ninety pages long; that it is a remarkable document developed by County budget personnel and is a credit of the personnel involved in the County's budget process; that while there are public hearings on the regular annual budget, which includes that portion of the capital budget to be acted on for the current fiscal year, there were no full-scale public hearings on the total five year capital budget; and that the current budget process follows the law but it seems to him that greater public input on the five year capital portion is vital if County government is to be open and solicitous of public input, particularly concerning its long run physical improvement plan. He urged the Board that at some point in the budget approval process, they schedule a public hearing session on the full five-year capital budget itself so that the public at large can be fully informed and involved.

Mr. Sommers further stated that at the Board of Commissioners' November 20, 2006 work session, Briar Chapel's attorney presented a case for the retention of certain rights on the property deeded to the County with respect to the water tower which the developer is obliged to build and turn over to the County; that under its proposal, Briar Chapel would be able to install a satellite communication system and the proceeds garnered from a private company would then subsidize the soon-to-be organized Briar Chapel Community Homeowners Association; that this was informally approved, in principal, by the then existing Board of Commissioners; that if this issue comes before the current Board, he asks that his opposition for the proposal be recorded in that the commingling of private and public ownership, delegated usage and fund allocation is, if not illegal, a variation on a conflict of interest that would not be a credit to the County; and that with a water service operating below the level of enterprise sustainability, it would be a much better choice by the Board of Commissioners to allow these communication services to be integrated with the proposed water tank so that the fees collected by the County would be deposited in the Water Fund to help the operating/capital water service to benefit, as would its ratepayers, rather than singularly benefiting a private homeowners association.

Rita Spina, 12 Matchwood, Fearrington Post, Pittsboro, NC, thanked the Board for the initiative they are taking to improve Chatham County. She stated that within the last six weeks, they have accomplished more than has been accomplished within the last few years; that several years ago, Chatham Citizens for Effective Communities (CCEC) was promised by the former Board of Commissioners that a Major Corridor Ordinance for Chatham County would be forthcoming, but it eventually became clear that it was sunk in oblivion as the concept of strategic planning for commercial development in the County did not exist and would never be considered; that it has already been considered by the new Board and a preliminary group of citizens was asked to work on the basic foundation of the concept of a Major Corridor Ordinance; that this task force, under the guidance of Larry Hicks with significant legal assistance from John Graybeal, completed the first stage of development; that tonight the Board will officially expand the original task force to include members from the municipalities, the County Planning Director, and a variety of other appointees to continue the work on this project and bring it forth as a proposed ordinance; that this project will now go forward to support all the citizens who are interested in sound planning that balances the weight of both residential and commercial development with the critical need for responsible management of natural resources and preservation of the rural charm that makes Chatham County unique.

Larry Ballas, 139 Indian Creek Lane, Apex, NC, stated that there is an increase in crime on the

eastern side of the County; that increased patrols are needed; that the Board might consider appropriations to the budget to help fight the crime; that the County has wastewater problems; that he asks that the County sue the State for allocation in this area; that the County should not be restricted; and that the Board of Commissioners could chip in each year and buy lottery tickets to help with the budget process.

Greg Solomon, 406 Buck Branch Road, Pittsboro, NC, commended the Board of Commissioners for the work they are doing; that there is water running across Jack Bennett Road that is coming from the new subdivision; that he commends the general contractor and attorney for correcting the problem; that he was not satisfied with Keith Megginson's response; that someone in the County needs to have the ability to stop construction if there are problems; that he doesn't want to rely on the State to protect him; and that he urged the Board to inspect the property proposed for the new high school.

Allison Weakley, 311 Boothe Hill Road, Chapel Hill, NC, stated that there are many complaints about impact from developments affecting creeks; that there is a small staff for Planning and Erosion Control; that she hopes that the County can get positions filled as things are not being adequately reviewed nor are they being adequately enforced; that this is only going to get worse; that there are issues in Chatham Downs; that the State has jurisdiction over the erosion permit now; that the County needs to take a more active role; that the most difference can be made at the County level; that there is a lot of run off into Herndon Creek; that ground water pools at the berms and up to the silk fencing; that sediment was getting into the creek; that channels are being lost due to clearing of property. She urged the Board to look into what has happened at Boothe Mountain in detail.

Commissioner Lucier asked that the Board consider this matter further at a work session, possibly the February 19, 2007 Board of Commissioners' meeting. The County Manager is to check into this matter.

PLANNING AND ZONING

Subdivision Sketch Design Approval of "Parker Springs Subdivision": Consideration of a request by RLA Development Company, LLC on behalf of Chatham Land & Timber for subdivision sketch design approval of **"Parker Springs Subdivision"**, consisting of fifty (50) lots on 87 acres, located off SR #1700, Mt. Gilead Church Road, New Hope and Williams Townships

The Planning Director explained the specifics of the request for subdivision sketch design approval of "Parker Springs Subdivision".

Commissioner Lucier asked to hear from adjacent property owners and the applicant regarding the offer to conduct an environmental impact statement or study consistent with the County's subdivision regulations.

Grey Styers stated that the applicant had every intention to make this development a good project for Chatham County and the future residents in this area; that the applicant has worked on addressing the width of the stream buffer and looked at providing information; that there has already been some preliminary resource work done; that they will make sure all of the information is provided and filed prior to the next step in the process which is preliminary plat application; that he is working with a number of engineers and consultants and is familiar with the property and characteristics; that he has said that he is incurring additional expense with the additional step, but is willing to incur it.

After considerable discussion and as per the Planning Department and Planning Board

recommendation, Commissioner Cross moved to grant sketch design approval of **“Parker Springs Subdivision”** with the following condition and with the environmental impact assessment with peer review prior to the preliminary plat approval.

1. The park areas and off-site septic area within Monterrane Subdivision along the common boundary with the subject property shall be shown on the preliminary and final maps.
2. To include an environmental statement with peer review prior to preliminary plat approval.

Commissioner Vanderbeck seconded the motion.

After further discussion, the Chairman called the question.

The motion carried four (4) to one (1) with Commissioner Barnes opposing.

Subdivision Sketch Design Approval of “Lystra Road Subdivision”: Consideration of a request by Dornoch Group for subdivision sketch design approval of **“Lystra Road Subdivision”**, consisting of ninety (90) lots on 144 acres, located off SR #1721, Lystra Road, Williams Township

The Planning Director explained the specifics of the request for sketch design approval of “Lystra Road Subdivision”. He stated that if the Board decided to deny the request, they should give the specifics for the denial in the motion.

Attorney for the applicant, Karen Kemerait stated that they have filed a major subdivision application and are before the Board for sketch design; that they have not only met but exceeded many of the County’s requirements; that the property is located along Lystra Road, southeast of Chapel Hill, and west of Jack Bennett Road; that it is over 144 acres and is currently zoned RA-40; that the proposal is to build 90 single-family residences on the property; that the lot sizes will range from 40,000-99,000 square feet for an average of a little more than 1.5 acres per lot; that the lots will be serviced by County water and private septic; that the Herndon Creek runs along the edge of the southwest border of the property; that there have been two Planning Board hearings prior to the night’s meeting; that she was not in attendance at the first meeting but did attend the second one; that after the first Planning Board hearing, the property owner and the engineers listened very carefully to the concerns of the neighbors and worked very hard to try to develop a good plan that would meet and exceed the County’s requirements; that she didn’t think they had been able to make everyone happy, but they have worked very hard; that the issues with which they have been dealing are issues regarding wetlands and historical structures; that they have revised site plans to try to make the plan more acceptable to the neighbors; they have provided letters to the adjacent property owners giving them more information; that the first concern that was raised was with the neighbors about protecting Herndon Creek; that this area is considered to be a Watershed IV protected area; that pursuant to the Watershed Protection Ordinance, houses are allowed to be built on one-acre lots; that they have exceeded that by building on approximately 1.5 acre lots; that they have also taken extra steps to protect the creek; that they have exceeded the County’s creek buffer requirements; that they have voluntarily agreed to 100’ undisturbed buffers along Herndon Creek and a 200’ no-build buffer along the creek; that the second concern that was raised was with regard to protecting the Herndon great natural heritage area; that the memo from the NC Wildlife Resources Commission stated that they preferred development be concentrated outside of the heritage area; that the revised site plans the cul-de-sac was moved outside of the heritage area; that they took building footprints of two lots, #31 and #32, and moved them outside of the heritage area; that they moved the building footprints for lots #36 and #37, further away from the heritage area; that there

was also some concern about the traffic study that was performed; that she thinks the confusion has now been cleared up; that the concern is that the traffic count was done on a day when Chatham County Public Schools were not in session; that there was also some concern about whether the traffic study took into account future proposed developments in the County; that the traffic study counts were performed on Tuesday, March 28, 2006; that they confirmed with Paul Joyce, Assistant Superintendent of Chatham County Schools, that that was a day when schools were in session; that the traffic counts were performed during peak AM (7:00 -9:00 AM) and PM (4:00-6:00) times; that the study also took into account the increased traffic from this development, the existing traffic, and traffic from proposed developments that have not yet been built; that this was a conservative study, as the traffic count was done for a previous plan for 140 homes; that the new plan is for 90 homes; that a traffic impact analysis is not required by the County for subdivision approval; that this is something that the property owner has voluntarily agreed to do; that the NCDOT was going to take a look at the traffic due to the proposed subdivision and whatever they determine is what the property owner will have to abide by; that the wetlands were the next area of concern; that the County's ordinance requires that a soil scientist be hired and a preliminary wetlands study be performed before sketch plan approval; that they have complied with this; that they have hired a reputable firm, S&EC, to do this; that they performed a detailed report; that Ms. Weakley spoke and voiced concerns as to whether they could identify all of the wetlands on the property; that after S&EC returned to the property and looked at the property to which Ms. Weakley had referred; that they are confident, and have confirmed, that they have identified the wetlands on the property; that the issue is really before the Army Corps of Engineers who will have to look at it and make a final determination before preliminary plot approval; that will be done after sketch design approval; that they have submitted a good sketch plan; that they have tried to listen to concerns, have changed the site plans at least twice, and have worked hard to present a good plan to the County; that as the Board knows, the sketch design process is to ensure adherence to County required design standards and to get initial input from the Planning Board, the Board of Commissioners, and adjacent property owners; that after receiving sketch design approval, they then go get permits and get NCDOT to look at the traffic, wetlands, and the Health Department to look at the soils for the septic systems; and that they are asking the Board to vote in favor of their sketch design in accordance with the Planning Board and Planning Department's recommendation of approval.

Ms. Kemerait further stated that with regard to the suitability of the land, a question had been raised in the Minority Report, if the land was physically suitable for development; that according to 6.1A of the County's ordinance, it states that land can be found to be physically unsuitable for development because of flooding, bad drainage, steep slopes, rock formations that may endanger the health, life or property or aggravate erosion or increase flood hazard; that this property is not located in the flood zone; that the only question is about the steep slopes; that the development has been moved far away from the steep slopes; that they have a 100' undisturbed buffer and a 200' no-build buffer from the Herndon Creek; that the reason steep slopes can be a problem is only if they endanger the health, life, property or aggravate erosion or increase flood hazard which is not the case with this situation; that there are some slopes in the southwest corner of the property but that they have moved development away from it; that this land is physically suitable for development. She thanked the Board for giving her the opportunity to speak and stated that she would be happy to answer any questions.

Simon Smith, 598 Jones Branch Road, Chapel Hill, NC, stated that his property abuts the southeastern corner of the developer's Lystra Road property, and that he has been living at his present address for eleven years. He urged the Board to deny the developer's current sketch design for the following reasons:

- 1.) The traffic situation along Lystra Road is going to become terrible by the year 2014 because of the construction of Briar Chapel. The Briar Chapel development is the proverbial 800 pound gorilla when it comes to traffic in North Chatham. With about 2,400 homes, that one development is going to

be dumping huge amounts of additional traffic on area road. But where exactly is that traffic going to be heading. If one believes the Briar Chapel developer's traffic impact assessment (TIA), only 11% of peak hour traffic is going to use Lystra Road. He seriously questions that figure of 11% because Lystra Road is the fastest way to reach such destinations as South Point Mall, I-40, RTP, northern Cary, and Raleigh. For ten years, he has been commuting to his job in northern Cary along Lystra Road and Farrington Road. This is the standard shortcut for people who live in his vicinity and work in RTP or northern Cary. He strongly suspects that the percentage of Briar Chapel morning traffic that will be traveling east along Lystra Road is going to be much higher than 11%.

2.) The TIA submitted by the Lystra Road developer uses the Briar Chapel TIA as input. However, the Lystra Road developer's TIA deliberately underestimates traffic coming from the Briar Chapel development by using only 60% of the numbers from the Briar Chapel TIA. This was done because the Lystra Road developer expects to have build-out in 2011 while the Briar Chapel developer does not expect to have build-out until 2014. The Board of Commissioners must take into consideration the traffic situation not only in 2011, but also in 2014 and beyond. He encourages the Board to require that the Lystra Road TIA take into consideration all traffic expected to be generated by Briar Chapel. By considering only 60% of the Briar Chapel traffic, the Lystra Road TIA comes up with the amazing prediction that between 7:00 AM and 9:00 AM, only 56 cars will be added to Lystra Road from Briar Chapel. He is confident in saying that this number is ridiculously low. One of his coworkers lives in a neighborhood along Mann's Chapel Road and he commutes to their company along Lystra Road. He told him that as he is driving to work, there are numerous other cars coming out of his neighborhood making the same journey down Lystra Road to I-40. When he told him about the Lystra Road developer's prediction that only 56 cars would be coming from 2,400 homes in Briar Chapel, he laughed and said he thought the number would be ten times higher. He does not claim to be able to predict exactly how many cars will be traveling down Lystra Road from Briar Chapel, but he is confident in saying that it will certainly be a lot more than 56 cars, it will be many hundreds.

Some other flaws in the Lystra Road developer's TIA include:

- The TIA only observed traffic from 7:00 AM to 9:00 AM and from 4:00 PM to 6:00 PM. This means it missed the key event of North Chatham Elementary School getting out between 2:30 PM and 2:45 PM.
- The TIA contains the flawed assumption that about 19% of morning rush hour traffic from Briar Chapel is going to turn right off Lystra Road onto Jack Bennett Road. This will not happen. Virtually 100% of Briar Chapel traffic will continue on to the intersection with Farrington Point Road.
- The TIA did not study at all the situation at the intersection of Lystra Road and Farrington Point Road. This intersection is poised to become a major rush-hour choke point by 2014.

Even given its shortcomings, the Lystra Road developer's TIA still reveals that by the year 2011, the traffic at the intersection of Lystra Road and Jack Bennett Road is going to be at a Level-of-Service (LOS) rating of F. This is the worst rating and is associated with bumper-to-bumper, stop-and-go traffic and long delays. This F rating applies even before the traffic from the Lystra Road Property is taken into consideration.

He strongly urged the Commissioners not to approve any more developments in the Lystra Road area until an independent study of traffic in North Chatham in the year 2014 can be completed. He read two sentences from the Chatham County Subdivision Regulations. The sentences he read are found in the section titled, "Purpose" on page 4. The section begins "This ordinance is adopted for the following

purposes:”. Paragraph D says “To insure an adequately planned street system and to avoid sharp curves, steep grades and hazardous intersections”. Paragraph L says, “To provide for the orderly safe flow of traffic and to avoid congestion and traffic hazards”. Given the fact that the Briar Chapel development has already been approved, he stated that he does not see how approval of any more developments in the Lystra Road area is going to uphold the spirit of these two purposes for having subdivision regulations.

His final comment was made on the subject of traffic. Contrary to what a planning department staff member stated at the December Planning Board meeting, he stated that it was his understanding from reading the Chatham County Subdivision Regulations that for sketch design approval of major subdivisions, the developer is required to provide an economic impact assessment and that part of such an assessment is a traffic study. He referred the Board to pages 38 and 39 of the Subdivision Regulations.

He stated that the southern portion of the developer’s property has steep slopes and a bouldery surface, and the developer’s design has some very steep roads and curves that will almost certainly require significant excavations to accommodate. The road that leads to the southeastern corner of the property begins downhill at a grade that he computes to be 17%. The NCDOT limit for such a road is 18%, so the developer’s road is close to the limit. The road then curves around to the left. This curve will almost certainly require cutting into the hillside because otherwise one side of the road is going to be six feet higher than the other, which he strongly suspects is outside DOT limits. When he raised this concern at the Planning Board’s meeting in December, a representative from the developer followed up to his comments with a response that they did not intend to do significant excavations or grading to accommodate the road, but that they would build up one side of the road to make it level. He is not exactly sure what kind of build-up he was referring to, but generally when a road is constructed on a steep slope and it is not cut into the hillside, a substantial concrete and/or steel substructure is built to hold up the construction costs would be economically feasible for a road that serves only eight houses. He therefore, stands by his original comment that significant grading and excavations will be required to accommodate this particular cul-de-sac.

3. The developer’s design only provides a 25 foot buffer to adjacent property owners. While I am aware that this is the County mandate minimum, the Westfall development on Lystra Road granted at least a 50 foot undisturbed buffer to adjacent property owners. He thinks the Lystra Road Property sketch design should also be required to provide at least a 50 foot undisturbed buffer to adjacent property owners.

4. Like other property owners who will speak tonight, he too is very concerned about preserving the quality of the local environment, specifically the Herndon Creek Significant Natural Heritage Area and Jones Branch Creek, which feeds into Herndon Creek. He stated that he is not happy that the developer still has not modified their design to leave the Herndon Creek Significant Natural Heritage Area completely undisturbed; that he will not go into greater detail on this subject because he knows others are going to discuss it in more detail; and that he would like to add his voice to their concerns.

Mr. Smith stated that he appreciated the Board’s attention this evening, and urged them to not approve the developer’s sketch design in its present form.

Gretchen Smith, 598 Jones Branch Road, Chapel Hill, NC, stated that she and her husband reside on eleven acres of land adjacent to the southeast corner of the proposed “Lystra Road Subdivision”; that she has lived there for twenty-two years; that as President of the Jones Branch Homeowners Association and adjacent property owners to the proposed Lystra Road Subdivision, she

still has concerns about the development even with the few changes the developer has made to the submitted application; that she asks the Board of Commissioners' to deny the application for sketch design as submitted, for the same reasons that were presented to the Planning Board on December 5, 2006 and January 2, 2007 and in letters dated January 7th to each Commissioner from her husband and herself; that although recognizing that property owners have rights regarding development of their property, she believes development should be done in a responsible way that is compatible with the surrounding community and not in a way that is detrimental to water quality, the environment, adjacent property owners, or the community; that she believes that is why the County has ordinances and regulations, and why government has both the authority and the responsibility to protect against those detrimental effects; that in the three Planning Boards she has attended recently, the message she kept hearing was that if the property is divided into one-acre lots, it meets Subdivision Regulations and must be approved; that when requests for Economic and Environmental Impact Assessments are brought up by adjacent property owners and a few Planning board members, the message is that those assessments cannot be required for sketch design; that she respectfully disagrees, based on her review of the regulations; that she believes the Chatham County Subdivision Regulations give the Planning Board and the Board of Commissioners the authority and responsibility to perform a responsible review of subdivision requests that goes beyond just the fact that the proposed sketch design meets the one-acre lot requirement; that specifically, she would like to refer the Board to the following sections of the ordinance: Page 4, Section 1.3, Purpose, particularly items A, B, D, E, H, K, and L; Page 28, Section 4.4.B Procedure for Major Subdivision (1) Step 4-8, which states "The information required on a sketch design map is described in Section 5.1, Section 5.2A, Section 5.2B, and Section 5.2C."; Pages 38-30, Section 5.2 Additional Sketch Design or Preliminary Plat Information, A. Impact Assessment, (1) Environmental and (2) Economic; Pages 44-45, Section 6.1 Suitability of the Land, A. Land Physically Unsuitable for Subdivision; Pages 55-56, Section 6.5 Public Use and Service Areas, B. Easements, Dedications, and Reservations, C. Community Assets.

She stated that a summary of her concerns include:

- Insufficient information provided by developers for a thorough and responsible review
- Insufficient time allowed for a thorough and responsible review
- Failure by the current developer to solicit or use input from adjacent property owners and other interested parties
- Unsuitability of the land for subdivision as proposed due to:
 - Herndon Creek Ravine Significant Natural Heritage Area (SNHA)
 - Number of wetlands and streams, including tributaries that drain into adjacent Jones Branch stream and parts of Herndon Creek located on adjacent properties
 - Steepness of topography in many areas
 - Bouldery and extremely bouldery surface on significant portion of property
 - Narrow, winding Lystra Road not designed for traffic generated by large developments
- Need for an Environmental Impact Assessment due to Herndon Creek Ravine SNHA, wetlands and streams within the Herndon Creek watershed
- Need for an independent Traffic Impact Analysis as part of an Economic Impact Assessment
- Need for permanent conservation protection of Herndon Creek Ravine SNHA and the Herndon Creek watershed
- Amount of area indicated as "unsuitable", bouldery and extremely bouldery on the Detailed Soil Report, and potential for site disturbance
- No details regarding surface drip septic systems or their maintenance
- Insufficient undisturbed buffers for Herndon Creek Ravine SNHA, other streams and

wetlands

Ms. Smith stated that more details about these concerns are contained in the documents distributed to the Board. She thanked the Board for the opportunity to present her concerns.

John Phillips, 102 Jones Branch Road, Chapel Hill, NC, stated that he has moved out-of-state; that he was able to view the first sketch design; that it has been revised from his new address in Oregon; that he couldn't tell much difference between the first and second sketch designs; that he feels that there are tremendous amounts of very steep slopes; that it appears to him that the developer has taken the perimeter and of the property, drawn a bunch of lines, and given them a lot number; that they are now going to take that sketch and have the Health Department and the Planning Department look at what will actually work; that he feels that he now has no idea of what the ultimate subdivision might look like; that he knows that the lots that are drawn inside of the perimeter will not work as they are drawn; that he has extensively hiked the property; that an impact study needs to be done; and that he believes that there are only 50-60 buildable lots.

John Emerick, 424 Jones Branch Road, Chapel Hill, stated that he has heard the same arguments from the developer stating he has made his concessions for the last eight months. He pointed to a lot which he said had a very steep elevation and would have a mis-named system called "drip irrigation"; that he thinks it will go directly into Jones Branch Creek; that he is opposed to the development as currently planned; that all of the lots in Jones Branch are eight to ten acres; that he would not be opposed to ten-acre lots; that he thinks that the density is too high for the neighborhood; that there will be lots of dogs and people running through the woods; and that he would like to see some independent confirmation that this is actually a buildable piece of property.

Allison Weakley, 311 Boothe Mountain Road, Chapel Hill, NC, stated that she did not feel that a lot of the issues were addressed at the Planning Board level; that there has been a lot of talk about developers meeting or not meeting regulations; that the suitability of the land is important for the Board to consider because they are the ultimate judge of what or what is not suitable; that she would urge the Board to visit the site if they have not already done so; that the large portion of the property is 15% slopes or greater; that there are impervious soils on the site that require drip irrigation on uplands; that there are seeps that have still not been recognized by the developer; that seeps flood land; that it is important to recognize areas of seeps regardless of whether or not they are buffered as streams at the beginning so that later problems can be avoided; that she is concerned about the layout of the property; that there are some odd lot configurations on the site; that according to the County's Subdivision Ordinance, Pages 50-51, "The Board of Commissioners can decide shape and orientation of lots shall be such as the Board of Commissioners deems appropriate for the uses contemplated. The type of water supply as sewage disposal services, soil characteristics, improvements in relation to the stream system."; that she would encourage the Board to look in more detail at the lot configurations to see if they think they are suitable for the land, soil, and sewage disposal; that there are some discrepancies that were pointed out during the Planning Board meeting regarding wetlands not being identified; that the Subdivision Ordinance, Page 38, requires the developer to show sketch design stage to show approximate locations of water bodies including sinkholes, dry spring beds, pond overflow streams as well as lands subject to flood and other pertinent features; that she would argue that lands that have seeps flowing out of them in winter are subject to flood; that there are no recreation areas proposed in the subdivision; that the Subdivision Ordinance, Page 38, requires the developer to show the approximate location, dimensions, and acreage of all property proposed to be set aside for park or playground use or other public or private reservations; that no time schedule has been proposed as is required for subdivisions with more than fifty lots; that Subdivision Ordinance, Page 38, also requires that the sketch design map show the approximate location of structures of approximate fifty years old or having historical significance on the property or within one hundred feet of the development of property

on adjacent land; that there is a parcel on the southeast corner which contains an old farmhouse thought to have been built in the late 1800's; that there is an African-American family who has lived there for as long as they can remember; that an old tobacco barn and chimney are maintained there; that the farmhouse is well within one hundred feet of the property line; that it was not acknowledged on the sketch design; that the Subdivision Ordinance, Page 39, allows the County to request that an Economic Impact Assessment for subdivisions of more than fifty lots be conducted to determine the impacts on school capacity, traffic, increases in population, increases in public service costs and other potential negative economic impacts; that given the size of the subdivision and the potential impacts on traffic's full capacity and other items, she would recommend that an Economic Impact Assessment be required before approval; that regarding environmental impact, she has raised a lot of concerns including the significant Natural Heritage Area along Herndon Creek; that originally when the development came forward before the former Board as Lystra Gardens, the NC Natural Heritage Program wrote a letter to the Planning Department Staff asking that the developer give a 300' buffer along Herndon Creek to protect that area; that she would think that at least a 300' buffer would be warranted given that these are recommendations from the people who originally designated the area as being important for wildlife habitat and water quality; that she has been working on the Herndon Creek Conservation Project that is an effort between landowners throughout the watershed and state agency Eco System and Enhancement Program to protect stream buffers throughout the watershed; that the State has given a letter of acceptance into their high quality preservation program which means that they are willing to accept donations from landowners throughout the watershed which means that they are pouring a lot of money into the watershed to preserve it, the water quality, and wildlife habitat; that slopes are 15% or greater; that the Subdivision Ordinance allows for an environmental assessment to be requested; that the Subdivision Ordinance, Page 44, discusses suitability of the land because of flooding, bad drainage, steep slopes, rock formations and other such features which may endanger health, life, or property and aggravate erosion or increase flood hazard; that part of the environmental assessment should include an archeological and historical assessment of the site and adjacent properties that would be affected by the development; that she encouraged the Board to look in detail at some of the stream buffers proposed; that there are a number of discrepancies which she will submit for the Board's information; that there has been no addressing of stormwater on the site; that she feels that it is important to look at stormwater before sketch design approval; that the area along Herndon Creek is extremely rocky; that the detailed soil evaluation by S&EC states that the majority of soils on site have a bouldery to extremely bouldery surface; that S&EC also notes that removal of surface boulders will be necessary prior to installation of sub-surface septic systems and that the potential exists for site disturbance to occur with the removal of these boulders; that the map submitted by S&EC showing suitable and unsuitable soils for wastewater disposal show the extremely rocky soils; that the soil has a moderate to very high hazard of erosion if the soil is disturbed and left bare for any length of time; and that concerns about the suitability of roads on the slopes, site disturbance, and house placement are concerns.

Jenny DeLoach, stated that she had lived on the property since 1982; that she spoke before the Planning Board regarding the development; that she brought up an issue that has to do with the soil report; that it is in contrast to a soil report that was put out by the same company in 2004; that she has looked at the subsoil from the 2004 report, the 2006 report, and the sketch design; that the 2004 subsoil report was done for subsurface ordinary septic systems; that the report was really being used for the wastewater treatment plant which came before the Board for Lystra Gardens; that she wanted to reiterate that the subsurface report was really from a typical septic plant done in 2004; and that there are discrepancies between the two reports. Ms. DeLoach explained the discrepancies between the two reports. She showed the picture of a bridge that was moved 500' downstream by erosion from one of the storms.

Gray Styers, stated that while the applicant believes that it has met the requirements for this part of the sketch plan, if the Board feels that there is more work to be done, they started at 142 projects and

it is now down to only 90; that there is more work to be done; that if there are concerns that the Board can communicate at the night's meeting, they are willing to do an environmental impact study; that they are willing to take the Board's feedback and return with it; that he doesn't think that there is anything they can do to satisfy everyone who has spoken at the night's meeting; that they want to try to make the project work; that it has been on-going for a long time; that the project is already smaller than it originally started; that if the Board feels as though it can be improved, they will be glad to do so.

Commissioner Vanderbeck stated that he appreciates the fact, that as reported, a traffic study was not required; that nevertheless, it was submitted and that he feels that it raises more concerns than if it was never brought up; that he is worried about that; that he is worried about the steep slopes; that in some of the areas he would call it a sheer; that he spent 2 ½ to 3 hours on the site with the layout as proposed; that he was very concerned where the roads came in, where sites were located, where seeps appeared to be, that there was plant growth that would support seeps; that he feels, as proposed, he would find a lot of the places unsuitable; and that as presented at the night's meeting, he could not support it.

Commissioner Lucier stated that he had lived on Jones Branch; that he had formerly walked the property; that the slopes are steep; and that looking through his maps and information, he doesn't feel that the land is suitable for 90 houses on 144 acres.

Commissioner Cross stated that he feels that there has been an "expert for every expert"; that he also has a concern about the slopes; that he has property that is not nearly as steep as this property, but the rock and the grainy part is similar; that there are three in-ground septic tanks; that they are marginal on that property; that if he has a lot of rain, some of it comes to the surface and it does run downhill; that it concerned him the last time with 140 houses, and it still concerns him. He stated that he would like to see a good, thorough study of the earth to prove to him that it is really going to hold it and do what it is supposed to do; and that it is too dangerous to take a chance and put the water into Jordan Lake.

Commissioner Barnes stated that when the project previously came before the Board, he felt that they heard everyone in Chatham County speak with approximately 99% against the proposal; that the slope is good for Billy goats and is steep; that there is a minority report; that regulations allow the County to refuse approval of land that is clearly unsuitable for development; that cutting into the slopes would be akin to cutting roads in the mountains; that the idea of not having erosion would be ridiculous; that stormwater would fly downhill; that it is going into two creeks and then into Jordan Lake; that drip irrigation is going downhill and into the lake; that he had hoped that the developer had admitted defeat and left town; that he still thinks it is a bad idea; that it is unsuitable ground; and that it is not desirable for Chatham County.

Commissioner Vanderbeck stated that one thing that was not touched upon was and should be mentioned was about the Natural Heritage Areas and the impact of the development; that he heard the developer's representative say that part of this had been that they were mindful to move some things around and lessen the impact; and that from his understanding, there are still parts of it that will be impacted.

Commissioner Lucier moved, seconded by Commissioner Barnes, to deny the application to grant sketch design approval due to the unsuitability of the steep slopes, potential for exacerbation of erosion, inattention to Natural Heritage Areas; and Traffic Impact Assessment. The motion carried five (5) to zero (0).

BREAK

The Chairman called for a ten-minute break.

PLANNING AND ZONING (cont.)

Zoning and Ordinance Amendments:

Robert Eby, 19 East Madison, Pittsboro, NC, stated that he had signed up to speak to the proposed revisions to the penalty sections of three ordinances and regulations, Zoning and Junkyard Ordinances and the Subdivision Regulations; that since his comments are interrelated, he would like to speak about all three of these proposed revisions at one time; that if one carefully looks at the three proposed revision, they will see that each has its own peculiar wording; that he sees no reasons for these differences; that he suggests that they could be revised so that they are essentially identical; that as he reads them, the changes to the Zoning Ordinance seems to be the clearest; that the Zoning Ordinance, in the first paragraph, says that a violation is a misdemeanor and....shall be punished by a fine or imprisonment not to exceed 30 days; that in the second paragraph, it says that violations “shall constitute either a misdemeanor or, at the election of the County, shall be subject to a civil penalty.”; that it then defines the civil penalties quantitatively as fines; that it also says that, if the fines are not paid in 15 days, they can be recovered by the County in a civil action in the nature of debt; that the Junkyard Ordinance, in its first paragraph, is similar to the Zoning Ordinance, except that it cites NC General Statute 14-4 as a reference; that in the second paragraph, no mention is made of violations being misdemeanors; that it refers only to civil penalties; that the quantitative penalties are the same as in the Zoning Ordinance, but here it says that failure to pay the fine within 10 days permits the County to recover the penalties in a civil action in the nature of debt; that the Penalty Section of the Subdivision Regulations have a first paragraph similar, but not identical, to the Junkyard Ordinance; that its second paragraph is identical with that of the Junkyard Ordinance, with no mention of a misdemeanor, except that it provides no specific provision for the County’s recovering the penalties in a civil action, if they are not paid within a specified period; that he would propose using identical language for the penalty sections of all three items and suggests they would each read as follows:

- A. Except as otherwise provided herein, each violation of the Ordinance (Regulation) shall constitute a misdemeanor, and violations of such provisions of this Ordinance (Regulation) shall be punished by a fine or by imprisonment for a term not exceeding 30 days, as provided by NC General Statute 14-4 or both.
- B. Any violations of this Ordinance (Regulation) shall constitute either a misdemeanor or, at the election of the County, shall subject the offender to a civil penalty upon the issuance of a citation for said violation as hereinafter provided. The civil penalty, if not paid to the County (Planning Department) within 15 days of the issuance of the citation, may be recovered by the County in a civil action in the nature of debt. Said civil penalties shall be assessed in the amount of \$50.00 per day for the first violation, \$100.00 per day for the second occurrence of the same violation, \$200.00 per day for the third occurrence of the same violation, and \$500.00 per day for the fourth and each subsequent occurrence of the same violation. Each day such violation continues shall be considered a separate offense.

Revision to the Moratorium Ordinance: Consideration of a request by the Chatham County Board of Commissioners for a revision to the Chatham County Moratorium Ordinance to amend Section 7, Exemptions of Ordinance, to remove sketch design from the list of exemptions

Commissioner Vanderbeck stated that it was mentioned that a number of counties use a preliminary only for the commissioners; that Moore, Wake, Randolph, and Lee Counties do not have a commissioner review of sketch design; that he thinks that in getting closer to the State standard which

goes with preliminary plat, he thinks this is the direction the Board should be heading and the language that is offered up speaks to that; that sometime down the road, the Board may wish to think about dealing with sketch in a non-Board way; that the sketch might be sent directly to the Planning Department, then the Board; that if a public hearing was necessary, it would then go to the public hearing and then return to the Board; that this would also allow for more citizen review which is needed on the front end, not as currently done where there are changes made after the public hearing; and that citizens and adjacent land owners and parties are involved on the front end; that everyone is "grandfathered" until it goes into affect; that everything that is required in sketch design is required in preliminary plat; that if the language is adopted, it would help preempt a rush to the Planning Department before a potential moratorium hearing; that he has heard people speak that a lot of money is expended in sketch design; that he says that he feels that the majority is expended in getting ready for preliminary plat review.

Commissioner Vanderbeck moved, seconded by Commissioner Lucier, to adopt **An Ordinance Amending the Moratorium Ordinance of Chatham County.**

Commissioner Cross asked for a more moderate change. He stated that Commissioner Vanderbeck mentioned bringing the ordinance closer in to the language of the State ordinance; that the Board will next discuss taking it away from the State ordinance; that nothing happens in County government that happens quickly; that he feels that if the Board is going to institute a moratorium, they will have plenty of time to think about it; that he is suggesting that sketch design be left as it is and state that once sketch design is approved by the Board of Commissioners, then it will be exempt by the moratorium ordinance; that part of the reasoning there is that there is not a lot of money necessarily spent up to sketch design; that it can take several months to get from sketch design to preliminary; that this is where all the permits, engineers, etc. are; that there can be several hundred thousand dollars invested between sketch design and preliminary; that it seems very unfair that a moratorium might be instituted two days before someone brings their three months worth of work and investment to the Board for approval; that he feels that if it was kept at the sketch design that has been approved by the Board of Commissioners, it should be grandfathered.

Commissioner Vanderbeck stated that the Board was getting back to State standards with the preliminary plat in regards to the moratorium.

Commissioner Lucier stated that it was his understanding that anything that currently has been approved in sketch design would not be subject to a moratorium if one was enacted.

The County Attorney replied that this was correct.

Commissioner Lucier stated that in reality, this change probably has a small impact; that he supports it; that it is important to keep in mind that anything that has already been approved by the Board is sketch design is in fact grandfathered in.

After further discussion, the Chairman called the question.

The motion carried four (4) to one (1) with Commissioner Cross opposing. The ordinance is attached hereto and by reference made a part hereof.

Public Hearings:

Public Hearing on Proposed Text Amendments to Communications Tower Ordinance:
Public hearing to receive citizen input on proposed text amendments to the Chatham County

Communications Tower Ordinance, Section 6-5, Remedies. The purpose of the amendment is to change the civil penalty from a flat fee to a graduated scale.

There was no one who wished to speak further on this matter.

Public Hearing on Proposed Text Amendments to Junkyard Ordinance: Public hearing to receive citizen input on proposed text amendments to the Chatham County Junkyard Ordinance, Section 9, Enforcement Provisions. The purpose of the amendment is to change the civil penalty from a flat fee to a graduated scale.

There was no one who wished to speak further on this matter.

Public Hearing on Proposed Text Amendments to Mobile Home Ordinance: Public hearing to receive citizen input on proposed text amendments to the Chatham County Mobile Home Ordinance, Section 19, Penalty for Violations and Section 6.2(A), Mobile Home Lot Size. The purpose of the amendments is to change the civil penalty from a flat fee to a graduated scale and increase the minimum lot size requirements.

There was no one who wished to speak further on this matter.

Public Hearing on Proposed Text Amendments to Off-Premise Sign Ordinance: Public hearing to receive citizen input on proposed text amendments to the Chatham County Off-Premise Sign Ordinance, Section 107.00, Enforcement. The purpose of the amendment is to change the civil penalty from a flat fee to a graduated scale.

There was no one who wished to speak further on this matter.

Public Hearing on Proposed Text Amendments to Subdivision Regulations: Public hearing to receive citizen input on proposed text amendments to the Chatham County Subdivision Regulations to Section 1.14, Prohibited Acts, Enforcement, and Penalties. The purpose of the amendment is to change the civil penalty from a flat fee to a graduated scale.

There was no one who wished to speak further on this matter.

Public Hearing on Proposed Text Amendments to Watershed Protection Ordinance: Public hearing to receive citizen input on proposed text amendments to the Chatham County Watershed Protection Ordinance, Section 106, Remedies. The purpose of the amendment is to change the civil penalty from a flat fee to a graduated scale.

There was no one who wished to speak further on this matter.

Public Hearing on Proposed Text Amendments to the Zoning Ordinance: Public hearing to receive citizen input on proposed text amendments to the Chatham County Zoning Ordinance, Section 19, Penalty for Violations. The purpose of the amendment is to change the civil penalty from a flat fee to a graduated scale.

There was no one who wished to speak further on this matter.

Public Hearing on Proposed Text Amendments to the Watershed Protection Ordinance: Public hearing request by the Chatham County Board of Commissioners to receive citizen input on proposed text amendments to the Chatham County Watershed Protection Ordinance. The amendments

include the following: amend Section 304, Buffer Areas Required, to increase stream buffer widths along perennial streams, intermittent streams, and unclassified streams countywide and to prohibit additional uses within those buffers; amend Section 501 (C) & (F), Watershed Administrator and Duties Thereof and Section 503 (C), Changes and Amendments to the Watershed Protection Ordinance to correct references to state agencies.

Bill Sommers, 1067 Fearington Post, Pittsboro, NC, had comments read by Ms. Loyse Hurley. She stated that Mr. Sommers wished to commend the Board for their action in an area of vital environmental importance to Chatham County, particularly during this current surge of development activity; that the protection of the County's watersheds is essential to preserving elements of Chatham County that are one of its greatest, but most fragile legacies: watersheds and their reservoir of land, forest, and wildlife; that the watershed concept is more deftly identified in the Cape Fear Water Basin Water Quality Plan (October, 2005) as: "the region, or land area, draining into a body of water (such as a creek, stream, river, pond, lake, bay or sound). A watershed may vary in size from several acres for a small stream or pond to thousands of square miles for a major river system. (pA-XI-5); that the plan underlines water quality problems in a number of sub-basin areas which include portions of Chatham County; that in Sub-basin 03-06-04 covering some 331 square miles, including Chatham, Alamance, and Orange Counties, "notable water quality problems and concerns have been documented for some waters...attention and resources should be focused on these waters to prevent additional degradation or facility water quality improvement."; that in Sub-basin 03-06-05 which contains about 100 square miles in Chatham County, the analysis concludes that many of the waters "were either identified as impaired in the previous basin plan (2000) or are newly impaired based on recent data."; that the plan goes on to point out that "local organizations and agencies are able to combine professional expertise in a watershed" encouraging "local initiatives so that people can make decisions that affect change in their communities."; that it is to Chatham's credit that a singular effort is being made to amend the current Watershed Ordinance as a local initiative to increase protection of its watersheds and to respond to the challenges outlined in the Cape Fear Water Basin Quality Plan; that some developers, and their technical professionals, may be upset with the more stringent requirements included in the ordinance; that their interest may be currently peaked because for many years that have been able to build stream and storm water infrastructure without detailed inspection or without meeting requirements for integrated "as built" plans; that many of their not infrequent errors and on-site variations are not either filled or paved over; that in this, the County and the homeowners have few options for correction; that other developers may emphasize the so-called vested rights involved in approved sketch or preliminary plans; that by emphasizing these rights over the necessity of protecting watersheds against the incursions and degradation identified in the Cape Fear Report, preserve the land now so that it will have a future; and that such action on their part, if successful, would be a tragedy for everyone.

Frank Thomas, 20 West Colony Place, Suite 180, Durham, NC, asked that the Board of Commissioners table the amendment for now. He stated that the maps cited in the text change are not finalized, are not available, and are incomplete; and that it was hard to have a public comment period on something that could not be seen.

Bill Camp, 4601 Joyner Place Raleigh, NC, stated that he is the Access Chair of the Triangle Off-Road Cyclists (TORC); that there are no trails in Chatham County; that it was their hope they could partner with the Corps of Engineers and Chatham County Recreation to develop trails, particularly in the Jordan Lake area; that they have concerns with included uses related to bicycle uses in the buffer zones; that biking has been dropped from another section; that in another section it bans all wheeled vehicles, which may include bicycles; that there are not a significant amount of studies done on the impact of biking as compared to hiking; that a use that has very low impact (similar to hiking) has been taken and it has been lumped in with all-terrain vehicles and other damaging uses in a watershed; that he would like to see are simple changes to the revisions: (Section 304.B7) to add back in biking trails, (Section

304C5) change to entry by motorized vehicles (not bicycles), and if that is done, bicycles that are expressly allowed on paved trails will become unnecessary as they wouldn't be banned from the buffers.

Stuart Bryan, 374 Walnut Branch Road, Chapel Hill, NC, stated that he is President of the Triangle Off-Road Cyclists (TORC); that they are the local International Mountain Biking Association (IMBA) affiliate club who builds low-impact sustainable mountain biking trails using IMBA's guidelines which are without question the gold standard of natural surfaces recreational trail construction; that as the new kids on the recreational block, they have had to bend over backwards to gain access and have had to learn how to build trails that exceed land manager's expectations; that their volunteers have spent many hours in both classroom and field training sessions and have logged many thousands of hours building and maintaining public trails in the Triangle; that they invite the Board to visit any of their trails or speak to park managers in any of the parks in which they have trails.

He stated that mountain bikers most definitely care about the environment that they enjoy riding in and through their extensive training in building sustainable trail, they demonstrate their intentions to protect that environment and minimize their impact; that while they applaud the widening of the buffer and strengthening of buffer protections, they strongly disagree that the removal of bikes from the buffer will in any way improve stream buffer protection; that their current classification, along with hiking as a passive recreation, should be allowed within the buffer and is supported by all the available science; that in a nutshell, trails designed to IMBA standards pay careful attention to topographical contours and maintain a relationship of tread slope to side hill slope to keep water moving in a sheet flow in its natural direction; that they use an assortment of techniques to avoid allowing water to build up a significant volume or velocity on their tread; that all of their trails in the area also have a wet weather closure policy that allows trails to drain after a rain; that if these expanded buffers on all perennial, seasonal and unclassified drainages are enacted, then it is their opinion that the entire user group of mountain bikers will be excluded in Chatham County; that the only available area for bike trails would be ridges and hilltops with no means of getting up to them unless they build a chair lift; that compared to the allowed buffer incursions, he guarantees that trails built to IMBA standards would be less of a negative impact than any of them: road crossings, greenways, water lines, sewer lines, petroleum and gas lines, and hiking trails with no specified design standards; that last but not least, bikes would be allowed in the buffer on an eight foot wide paved trail; that he thinks this is significant because it underscores the lack of preparations and planning to rush through these proposed changes; that it would be ok to take a dozer through the buffer, clear a twelve foot path, haul in the truck loads of stone and a nice petroleum based asphalt mix and pave an eight foot impervious path while they are prohibited from building a properly designed eighteen inch wide natural surface bike trail; that he cannot see how one can have improved the protection in the buffer by banning their trail while continuing to allow all the other activities; that he thinks that to make this kind of broad, County-wide policy change, it is imperative that everyone pulls together good and valid information to guide them in their decision; that he thinks as far as the removal of bikes from all stream buffers, available science has not been taped into about bike impact, the current state of trail design has not been looked into, the health benefits of recreational bike trails have not been considered, and the economic impact of bikers traveling into Chatham County to ride has not been considered. He stated that their recommendations would be to simply include biking trails in Section 304-B-7 with the stipulation that they are built to IMBA standards; that he would be happy to set a time to continue explaining their methods of trail design and construction; that he would suggest a trip to Little River to see their trails in the sensitive water shed protecting North Fork Little River with pristine waters and a population of endangered Carolina Heel Splitters; and that he asks for a chance to give the Board some factual information about who they are, how they build trails and how their trained volunteer work force can bring the amenity of sustainable bike trails to Chatham County at zero cost to the taxpayers.

Commissioner Lucier asked if Mr. Bryan could supply the scientific studies about the impact of trails to the Board.

Dave Lawler, 329 Henderson Tanyard Road, Pittsboro, NC, stated that he travels outside the County to ride his mountain bike; that he is leaving his home to ride his bike; that he thinks it is a shame; that Chatham County has the nicest of all counties; and that he implores the Board to take this into consideration when they make their decision.

Rajpeet Butalia, 55 Roy Hatley Road, Bynum, NC, stated that he serves on the CCEC Board of whom he is providing their views on the proposal to amend Article 300, Section 304 of the Watershed Protection Ordinance; that this section states the regulations from 'Riparian Buffer Areas Required'; that conserving Riparian buffers is one of many options available to planners, developers, and municipal administrators when considering Best Management Practices (BMPs) for water quality in a watershed; that low cost, proven efficacy in pollutant attenuation and preservation of terrestrial and aquatic wildlife habitat are some attractive characteristics of riparian buffers in that regard; that Riparian Buffers can protect surface waters from contamination by pollutants such as sediment, herbicides, heavy metals, nitrogen, and phosphorous; that several physical and geomorphic factors act in concert to determine the effectiveness of riparian buffers in removing pollutants; that slope, vegetation type, buffer width, soil characteristics, hydrologic regime and response of the soil, and contributing area land use are some that are widely accepted; that the proposed amendments will enhance the protection afforded by the existing Watershed Protection Ordinance and will help ensure that Chatham County's water resources are not further degraded; the Sections 304(D)1 and 304 (D)4 of the proposed amendments allow for several forms of land disturbance within buffers; that this should not be allowed due to the adverse effect on soil characteristics; that if there is no reasonable alternative, at the very least, these sections should provide clear guidance as to the circumstances under which such activities will be allowed; that in allowable circumstances applicable restrictions in a real extent and proximity to stream of the allowed activities should be specified; that simply re-vegetating these disturbed areas does not ensure a return to adequate riparian buffer function since many aspects of soil structure and hydrologic characteristics cannot be redressed by this; that buffer width affects the ability of Riparian buffers to reduce the impact of pollutants such as sediment and nitrogen; that wider buffers in general are better at achieving this; that they recommend the width of riparian buffers be specified from the edge of the stream to ensure the 'on the ground' buffer width matches that specified in the ordinance; that this will eliminate confusion in interpreting how to measure this distance for a given site; that Sections 304(E) and 304(F) allude to re-vegetation and creation of riparian buffers, but provide very little in the way of specifics; that a more holistic approach to integrating riparian buffers within a comprehensive watershed management plan could be achieved by providing specific guidelines on buffer design and creation; that riparian buffers have been studied intensively in North Carolina and other states and many resources prepared by a variety of state, federal, and academic institutions are available for use as guidance; that Chatham County has had its fair share of water woes; that to add to this, the recent news that Chatham County's domestic waste allocation request to NCDENR was not accepted means that the County will continue to sue septic systems or spray fields for domestic wastewater disposal throughout the County as it grows; that while groundwater is more likely to be impacted by this, surface waters will also be vulnerable to water quality impacts from these systems; that adequate riparian buffers are important in protecting the County's streams and waterbodies; and that he is asking the Board to enact the proposed amendment and also consider the concerns brought forth at the night's meeting.

Elaine Chiosso, Executive Director of the Haw River Assembly, PO Box 187, Bynum, NC, stated that she is speaking on behalf of the Haw River Assembly; that they encourage the Board to adopt the proposed amendment to the Chatham County Watershed Protection Ordinance Section 304 (Riparian Buffer Areas Required) that would increase the buffer areas for development from 50 to 100 feet on each side of perennial streams and for intermittent streams within 2,500' of rivers; that they enthusiastically endorse the 50 foot buffers for intermittent streams and unclassified streams in drainage area over 25 feet and 30 foot buffers on unclassified streams with 10-25 acres drainage area; that

riparian buffers are the lands adjacent to streams where vegetation plays a very strong role in protecting water quality; that the native grasses, flowers, shrubs and trees that line the stream banks and thrive in the floodplains and bottomlands are an essential part of healthy streams; that riparian buffers slow down runoff during storms and prevent sediment, nitrogen, pesticides and other pollutants from reaching the stream; that by slowing floodwaters, they protect the stream from the scouring effect of bursts of storm water roaring through; that the trees along the banks provide shade to keep streams cool, important to aquatic life; that in addition, the river buffers are an important habitat for many species of wildlife and provide a connected green corridor; that all of these benefits increase in scope as they increase the protected buffer area; that this revision to increase the buffers for streams could not come at a more important time, when Chatham County is experiencing such rapid development pressure; that larger buffers will protect water supplies and the environment that is cherished; that there are many ways that the rules for these buffers can accommodate the needs for living on the land as well; that clean healthy streams enhance their land and lives; and that they welcome the opportunity to work with Chatham County on protection of water quality. She stated that they appreciate the work that the Board is doing for all the citizens and for a healthy environment.

Allison Weakley, 311 Boothe Hill Road, Chapel Hill, NC, stated that she appreciates the opportunity to address the proposed changes to the Watershed Protection Ordinance, and to suggest further changes that will help protect Chatham's water resources. She stated that she is a biologist and has been an active participant in Chatham County planning and development activities for the past four years; that she would like to first commend the Board for taking the initiative to strengthen the Watershed Protection Ordinance (WPO) and bring it into line with the Compact Community Ordinance regulations; that she strongly supports the increase in stream buffer protection, and encourages the Board to approve the changes as soon as possible; that second, she'd like to introduce the Board to some guidance documents of which they not be aware that provide scientific, defensible recommendations for buffer widths, and specific recommendations for mitigating impacts to water quality.

Ms. Weakley's report is as follows:

GUIDANCE DOCUMENTS FOR RIPARIAN BUFFER ORDINANCES

Wenger (1999) and Wenger and Fowler (2000)

Seth Wenger (1999) of University of Georgia conducted a comprehensive scientific review of literature pertaining to riparian buffers to establish a legally-defensible basis for determining riparian buffer width, extent and vegetation.

He concluded that 100 ft. buffer widths are sufficient to trap sediments under most circumstances, though buffers should be extended for steeper slopes. He also concluded that to be most effective, buffers should extend along all stream channels, including intermittent and ephemeral channels, and that buffers must be augmented by limits on impervious surface and strictly enforced on-site sediment controls.

Wenger (1999) suggests three different minimum buffer guidelines for local governments which are all defensible given the scientific literature.

The first option provides the greatest level of protection for stream corridors, including good control of sediment and other contaminants, maintenance of quality aquatic habitat, and some minimal terrestrial wildlife habitat. The second option provides good protection under most circumstances, although severe storms, floods, or poor management of contaminant sources could easily overrun the buffer. The third is a basic fixed buffer option.

Given the importance of stream protection in our rapidly growing County, and the likelihood of storms, floods, and other factors, such as slope, that can affect the effectiveness of buffers, Option 1 in Chatham, (which I'll discuss in more detail later) seems the best option for Chatham.

Further, Wenger (1999) concludes that to provide a minimum 300-foot buffer is needed to provide habitat for area-sensitive species that depend on wildlife corridors.

A follow-up document, Wenger and Fowler (2000), provides model buffer ordinances based on the literature review (Wenger 1999). Links to both these documents can be found on the Chatham County website at:

http://www.co.chatham.nc.us/dept/planning/planning_dept/watershed_review_board/watershed_stream_1

NC Wildlife Resources Commission (2002)

A guidance document published by the NC Wildlife Resources Commission (2002) gives very specific recommendations to mitigate impacts to aquatic and terrestrial wildlife resources and water quality. Some of the highlights include:

Highlights from the NC Wildlife Resources Commission's

Guidance Memorandum to Address Secondary and Cumulative Impacts to Aquatic and Terrestrial Wildlife Resources and Water Quality (2002)

http://216.27.49.98/pg07_WildlifeSpeciesCon/pg7c3_impacts.pdf

GENERAL MITIGATION MEASURES FOR ALL WATERSHEDS

- 1) 100-foot forested buffer on perennial streams and 50-foot forested buffer on intermittent streams and wetlands.
- 2) 30% of development area as greenspace.
- 3) Prohibit development within the 100-year floodplain.
- 4) Limit impervious surfaces to less than 10% of the watershed. Maintain predevelopment hydrographic condition.
- 5) Use bridges instead of fill and culvert, where practicable. If needed, design culverts to allow passage of aquatic organisms.
- 8) Implement strong erosion and sediment control plans.

SPECIFIC MITIGATION MEASURES FOR WATERS CONTAINING FEDERALLY LISTED SPECIES

- 1) Stormwater permits for new developments exceeding 6% imperviousness.
- 2) 200-foot forested buffer on perennial streams and 100-foot forested buffer on intermittent streams, or the full extent of the 100-year floodplain, for all new developments.
- 3) Establish emergency management procedures which will contain runoff from fire fighting or hazardous spills that may endanger nearby streams

SUGGESTIONS FOR ADDITIONAL CHANGES

Ms. Weakley urged the Board of Commissioners to consider the more protective buffer widths recommended by Wenger (1999) and Wenger and Fowler (2000), and the specific recommendations

made by the WRC (2002) *Guidance Memorandum* for mitigating impacts to State and Federally-listed species.

Specifically:

**Option 1 (Variable Width)
from Wenger (1999) and Wenger and Fowler (2000)**

- Base width: 100 ft (30.5m) plus 2 ft (0.61m) per 1% of slope of the stream valley
- Extend buffer to edge of floodplain
- Extend buffer by width of wetlands that lie within or partly within the buffer (as determined by slope and floodplain width)
- Existing impervious surfaces in the riparian zone do not count toward buffer width
- Slopes over 25% do not count toward buffer width
- The buffer applies to all perennial and intermittent streams, defined by USDA soil survey maps, USGS topo maps, or other methods which most accurately represent true conditions
- Ephemeral streams are not protected by buffers, but their banks must be vegetated

Wenger did not include buffer widths for stream buffers, but recommends they be buffered if an appropriate buffer can be determined.

Gilliam (1994) notes that riparian areas along ephemeral and intermittent streams are the most important for preserving water quality. The NRC (2002) report estimates that, on average, ephemeral and first- and second-order streams combined comprise approximately 90% of total stream length in a watershed and, if proportional to hydraulic inflow, of total pollution loading.

The Compact Community Ordinance includes buffer requirements along ephemeral streams based on drainage areas, and I strongly support this proposed change.

She also encourage the Board to consider requiring:

- Buffers wrap around headwaters.
- Buffers of 300 feet or more to protect diverse terrestrial communities.
- Increased buffer widths to 200-feet on perennial streams and 100-feet on intermittent streams to mitigate impacts to rare species per the NC WRC *Guidance Memorandum* (2002).

SPECIFIC COMMENTS ON SECTION 304, C-E

Finally, she stated that she'd like to offer some specific comments on some of the requirements in Section 304, C-E, in particular:

- Section 304, C. *Prohibited Structures and Uses.*

As proposed, our Stream Buffer Ordinance prohibits a number of uses from within stream buffers, all of which she supports.

In addition to those uses suggested, Wenger and Fowler (2000), pg. 2, recommends the following activities and structures be prohibited:

Construction
Impervious surface

Logging roads
Mining
Application of pesticides and fertilizers

Please consider including these activities and structures in the list of prohibited uses.

- Section 304, D-1. *Clearing, grading or other land disturbing activities, which would reduce the effectiveness of the buffer, shall be revegetated.*

Stating that while she agrees that buffers should be revegetated after land disturbance, she is concerned that this language allows buffers to be cleared and graded, and then replanted, instead of preventing the buffer from being disturbed in the first place. No clearing or grading should be allowed in the stream buffer.

- Section 304, D-2. *Buildings and other features that require grading and construction shall be set back at least ten (10) feet from the edge of the buffer. The buffer can serve to meet minimum lot size requirements if there is sufficient buildable area remaining in the lot.*

Stating that while she understands that wider buffers may limit building on small lots in some circumstances, she is concerned that allowing buffers to be included in minimum lot size requirements will result in less protection.

- Section 304, E. *Clearing and re-vegetating the stream buffer for the purposes of improving its pollutant removal efficiency may be permitted, except within thirty (30) feet of a stream.*

Again, she is concerned that this language allows clearing and re-vegetating within contact buffers, which lessens protection.

- Section 304, F. *Invasive species listed by the NC Botanical Garden may be removed from the buffer. Natural regeneration of forest vegetation and planting of trees, shrubs, or ground cover plants to enhance the riparian buffer shall be allowed provided that soil disturbance is minimized. Plantings shall consist primarily of species native to Chatham County.*

While she agrees that removal of invasive species in a stream buffer may be warranted, it's important to understand that ground disturbance encourages the establishment of invasive plants, and using herbicides within the stream buffer is not recommended. Further, any plantings within stream buffers should consist of ONLY plant species native to Chatham County, and all plant species known to be invasive in the southeastern US should be prohibited (see NC Botanical Garden website for list of species).

SUMMARY

Ms. Weakley stated that she fully supports the proposed changes to the Watershed Protection Ordinance, and hopes that the Commissioners will consider additional changes in language and content recommended by Wenger (1999), Wenger and Fowler (2000), and the NC Wildlife Resources Commission (2002).

The **economic benefits** of protecting water quality in Chatham are great. Buffer protections do not deprive the land of its economic value, but rather preserve the economic value of downstream land, water quality and wildlife habitat (McNaught 2003).

As you all are well aware, Chatham County depends on good water quality for its future; without clean water, we fail to provide the very basic needs we need for ourselves, our children, our grandchildren, and for their children.

REFERENCES

Gilliam, J.W. 1994. Riparian wetlands and water quality. *J. Environmental Quality* 23:896–900.

McNaught, David et al. 2003. *Riparian Buffers: Common Sense Protection of North Carolina's Water*. Environmental Defense, Raleigh, NC. [Accessed online 30 December 2006 at http://www.environmentaldefense.org/documents/2758_NCbuffers.pdf]

NC WRC. 2002. *Guidance Memorandum to Address and Mitigate Secondary and Cumulative Impacts to Aquatic and Terrestrial Wildlife Resources and Water Quality*. North Carolina Wildlife Resources Commission, Raleigh, NC. [Accessed 31 December 2006 at http://216.27.49.98/pg07_WildlifeSpeciesCon/pg7c3_impacts.pdf]

NRC 2002. *Riparian Areas: Functions And Strategies For Management*. National Academy Press, Washington, D.C. 428 pp.

Wenger, Seth J. 1999. *A review of the scientific literature on riparian buffer width, extent and vegetation*. Athens: Institute of Ecology Office for Public Service and Out-reach, University of Georgia. 59 pp. and Laurie Fowler. 2000. *Protecting stream and river corridors: Creating effective local riparian buffer ordinances*. Carl Vinson Institute of Government, University of Georgia. 68 pp.

Margaret Moore, 472 Walter Bright Road, Sanford, NC, stated that she is concerned with the sections regarding public horse trails; that the NC Horse Council estimates that over 3,200 reported equines are owned or stabled in Chatham County which equates to a conservative economic impact of twenty-three million dollars; that the actual number of horses is probably much higher and each horse accounts for over \$2,000 a year in spending locally; that the majority of equine owners state that recreational and pleasure trail riding are their primary uses; that the equine industry is growing and with it, the demand for public horse trails; that North Carolina is eighth in the nation in the number of horses; that that number is growing as the State and County population grows; that many people who move to Chatham County do so that they may have their own small horse farm; that the number of small horse farms is growing; that thirty homes have sold in Chatham County in the last three months with an average sale price of \$242,080, having an average acreage from 5-20 acres; that new people are moving in with their horses and the people who are already in the County buy goods and services here; that they are also paying property taxes to build new schools; that they are creating job opportunities; that they are good neighbors; that they do not tear up trails with tire ruts or leave trash; and that if public horse trails are prohibited by law, horse people will not move here. She asked that the Board reconsider their decision and preserve, not prohibit, public horse trails in Chatham County.

Myrna Daniel, 1915 Mt. Carmel Church Road, Chapel Hill, NC, stated that she is a central district vice-president of the NC Horse Council; that there are guidelines for regulating impacts of horse trails on the environment; that they urge the Board of Commissioners to delete the section that specifically prohibits public horse trails; and that they request consideration of amending the current Compact Communities Ordinance to remove public horse trail prohibitions. She stated that they support all efforts to protect water quality across the State and would support an ordinance that incorporated broader language that would allow for site consideration of a variety of non-motorized recreational uses within the corridor.

Barbara Oslund, 114 Holly Glenn Road, Pittsboro, NC, stated that this is a good opportunity to look at the way our waterways are treated; that she is primarily for the ordinance but is concerned about the elimination of recreational opportunities; that any trail causes impact; that if the areas are really that sensitive than there shouldn't be hiking trails; that they should be reviewed on a case-by-case basis; that if this ordinance passes as proposed, the American Tobacco Trail wouldn't be allowed; that they ask that this part of the ordinance be removed and placed back on the drawing board; that the equine industry is important to Chatham County; that a recreational horse trail in a riparian corridor is not an inevitable threat to water quality; that public trails are likely to be managed better than private trails; and that the County may want to consider adopting language or developing guidance that allows a more comprehensive site-specific process for determining the suitability of recreational trails in a riparian corridor.

Commissioner Lucier asked if there were guideline for best management practices for the construction of horse trails that would minimize environmental impact.

Ms. Oslund stated that the International Mountain Biking Association (IMBA) Guidelines are very good and are applicable to horse trails.

Michael Nabor, 101 Maple Hill, Cary, NC, stated that he is a PhD candidate at NC State University in recreational ecology; that he is concerned with a couple of points; that he asks that the Board base their decisions on science; that mountain biking has no significant impact on the watershed; that their trails aim to mimic the flow of water; that there are national standards for trail construction; that the State has just done a study and \$3 million has been brought in through the economic impact of mountain bikers.

Sonny Keisler, 3006 River Forks Road, Sanford, NC, stated that he is representing the Friends of the Rocky River; that they support the text amendments to the Chatham County Watershed Protection Ordinance; that they propose three changes: 1) They suggest that Chatham County require stream buffers to be clearly marked before preliminary subdivision approval is granted; that this suggestion is similar to the present requirement that septic sites be clearly identified before preliminary approval is granted; that this means that buffer boundaries must be marked by tree paints and signs that clearly tell contractors to stay out of the buffer area; that otherwise, equipment operators will not know exactly what areas they must protect; 2) They suggest that criminal and civil penalties be increased; that raw land in the Rocky River watershed is relatively cheap at \$6,000 – \$10,000 per acre; that this means that high-end developers can disregard small criminal and civil penalties and still make large profits; that as the Friends of the Rocky River suggest, penalties be hard enough to make sure that even deep pocket developers will not disregard their obligations to protect Chatham's environment, especially fragile "heritage quality" environments such as the Rocky River; that this means that Chatham County should be able to impose the highest penalties possible for violations of buffer ordinances; that they should be at least \$750 per day; 3) They suggest that enlarged buffers be required for agricultural and silvicultural operations; that because many of them have been involved in agriculture and silviculture activities, they know that farming and forestry can be profitable and still protect the natural environment; that they strongly encourage Chatham County to strengthen buffer ordinances that apply to both farming and forestry; and that they think that 75' buffers along the Rocky River and at least 35' buffers along perennial and intermittent streams should be required in the Rocky River watershed for all agricultural and silvicultural operations.

Sean Clark, 11010 Raven Ridge Road, Raleigh, NC, stated that he has a couple of questions about how the buffers will be applied and about what maps will be used or will they be compared to what is surveyed in the field; that the Division of Water Quality (DWQ) has a process that allows for drainage ditches not to be counted as streams; that many municipalities have guidance of uses; that he

thinks there is some refinement that needs to be made to the ordinance before it is adopted.

Nick Robinson, stated he was submitting written comments from **Mark Ashness** that were previously submitted to the Planning Board. He stated that they essentially ask how a stream is identified for buffer purposes; that is the USGS map used or the County Soil Survey Map; that to his knowledge, there is not scientific basis for inclusion or exclusion of these channels within the Soil Survey; that this section reference "County approved low impact development design techniques"; that he is not aware of any current approved techniques on which to comment; and that he believes that the Board should not pass ordinance changes referencing standards that are not currently in place.

Larry Ballas, 139 Indian Creek Lane, Apex, NC, stated that common sense needs to reign in this situation; that he feels that, typical of government, they are trying to come up with rules that encompass everything that accomplish nothing; that he thinks that with the forward-looking Board of Commissioners now in place, it can be changed; that if they want a riparian buffer and want it set back 200', they do that for everything; that then underneath that, they incorporate "acceptions" that would include cyclists, horse people, etc. and define those areas so people know rather than what is trying to be done at this time; that to him, there is no difference between a hiking trail and a biking trail; that it will not be crowded; and that no matter how hard one tries to keep a riparian buffer and keep the environmental impacts to a minimum, a deer will still "poop" in the river.

Public Hearing on Revision to Ordinance Establishing the Planning Board: Public hearing request by the Chatham County Board of Commissioners for a revision to the following sections of the Chatham County Ordinance Establishing the Planning Board: Section 1, Appointment and Compensation, to increase the number of Planning Board members; Section 2, Organizations, Rules, Meetings and Records, to allow the Board of Commissioners to remove Planning Board members without cause; Section 2(I) to make a technical correction; and Section 4, Annual Report of Activities, to revise reporting procedures.

Bob Eby, 19 East Madison, Pittsboro, NC, stated that he supports the intent of the proposed revisions to the ordinance that establishes a Planning Board for Chatham County; that in particular, he agrees that a new member of the Board of Commissioners should have the opportunity to recommend replacing his/her appointees on the Planning Board and be able to do so with the approval of a majority of the members on the Board of Commissioners; that he does not agree, however, that this opportunity should be available forever; that he has a concern that highly qualified citizens may be reluctant to volunteer to serve on the Planning Board if they feel that they might be replaced at any time; that he would suggest that the ability to recommend the replacement of a sitting member of the Planning Board be limited to the first 120 days after a new member of the Board of Commissioners takes place; that as an alternative idea, the Board might consider resetting the term of office for Planning Board members such that they coincide with the term of office of Board of Commissioners members; thus, a Planning Board member's term would be expiring at the same time that the term of the Commissioner who recommended his/her appointment expires.

Rita Spina, 12 Matchwood, Pittsboro, NC, stated that she would like to make a recommendation for a change of wording in Section 1, Appointment and Compensation of the Ordinance. She stated that this wording was in the prior ordinance and in all probability has been this way since it was first written and sounds like another era or error; that the last sentence in this section has an incorrect word that needs to be changed: It presently reads, "Appointments shall be made in such a manner that Planning Board members shall represent in so far as practical, the geographical, socioeconomic, sexual and racial makeup of the County."; that she checked with a professor of English, who laughed and agreed with what she found in The Oxford English Dictionary which refers to the word sexual as "sexual

intercourse, or to physical attraction or contact between individuals”; that she doesn’t think this is what the Board is really looking for on the Planning Board; that the dictionary will help everyone out; that the appropriate word to use is “gender”; that “the state of being male or female – with reference to social or cultural differences; the members of one or another sex”.; and that she believes that the “Founding Fathers” would be happier with gender.

Karl Ernst, 711 Red Oak Drive, Siler City, NC, stated that having a Planning Board made up of people of like thought that could be removed on a whim does not serve the public well; that it may send the wrong message to folks and discourage them from serving; that the diversity of the different volunteer boards helps the County be adequately represented. He urged the Board to reconsider the language and come up with a solution that will allow a person to allow a person to serve but would allow them to be removed with certain requirements.

Larry Ballas, 139 Indian Creek, Apex, NC, stated that he is against this in general; that he recommends doing away with the Planning Board and starting over; that a fresh start is needed in Chatham County; that the Planning Board should be completely independent, from the people and developers who come into the County, but from the Board; that the Commissioners should not necessarily appoint people that agree with them entirely; that they should be appointing the best and most knowledgeable people to give them the best estimate of what the County should be doing and the direction in which it should be going; that if the Board doesn’t want to start over, they may wish to increase the number of members serving on the Board; that he is against the ordinance the way it is written.

Larry Hicks, 128 Persimmon Hill, NC, stated that this board is critical and vital to the process; that it has to be respectful of balance and open and inviting to the public and developers; that there needs to be a mix of expertise and knowledge; that it needs to be non-political; that he suggests aligning Board appointments with their terms of expiration; and that the just cause section is too loose.

Jeffrey Starkweather, 590 Old Goldston Road, Pittsboro, NC, stated that he applauds the Board’s intent; that a better approach is to have up to three two-year terms; that he thinks it would be difficult to go about terminating people on a board; that the idea of terminating without cause doesn’t seem quite apropos to a board where people are voluntarily serving; that there should be specific reasons for termination from a board; that there should be some mandatory training for people on boards this technical; that people should have deliberation training; and that he supports the concept with a few changes.

Kathleen Hundley, 136 Rocky Falls, Sanford, NC, stated that she represents the Friends of the Rocky River (FORR); that she wishes to speak to the role of the Planning Board rather than the character of the board; that with regard to the need for an environmental assessment of the impact on the natural area prior to construction of new developments within the water basin of the Rocky River, FORR supports the requirement of an Environmental Impact Study (EIS), an in-depth study for any/all development of the projected impact for the long-term future of the geographic area as opposed to preparing the present simple environmental assessment of minor changes, but not projected problems anticipated in the immediate future; that the developer would be required to pay for the EIS and any related study or projects; that FORR also supports the organization of an Environmental Committee to advise and make recommendations to the Board of Commissioners on environmental issues; that that recommendations would include: 1) Setting the criteria for and standards with which any developer requesting approval to construct within Chatham County and particularly the Rocky River water basin would comply when preparing the EIS; that standards would be set on a projection of impact based on present trends in ten or more years from now, based on what is presently happening in the County, what would the impact of this requested development be on the health of the County and on the Rocky River

Basin? 2) Reviewing any/all EIS reports to determine compliance or non-compliance with stated standards. 3) Deciding and recommending policy regarding any impact on the environment for all development within the County, commercial, industrial, or private. 4) Enforcing the above with penalties for non-compliance that would be felt by the developer regardless of wealth, size, or reputation; that many of them moved to Chatham County because of its quiet beauty and low population density; that they want it to retain at least some of those qualities in the face of major immigration to the State of North Carolina from within the country and beyond; that if they want to keep what is best about Chatham County, the time is now to set their own standards to protect the environment and to insist that those standards be met; that in the recent past, little has been required or enforced in the way of standards to protect the infrastructure or environment and waterways with the County; that FORR supports the premise that if a developer wants to build in Chatham County, he should be willing to build on the County's terms, not expect that the County approve building on his terms.

Heather Johnson, 321 LC Farm Road, Pittsboro, NC, stated that the ordinance does not allow for a proper definition about what would be just cause; that she is concerned that not everyone's views are going to be represented on a number of the boards that have already been created; that there is little motivation for folks to serve if they are afraid of being removed on a whim; and that she would like to see the Board have an environment of cooperation among the citizens.

The Chairman closed the public hearing.

MANAGER' S REPORTS

The County Manager had no reports.

COMMISSIONERS' REPORTS

Planning Board Issue:

Commissioner Lucier stated that there was a lot of information presented at the night's meeting; that there is no doubt that the current Board was elected to implement the Land Use Plan; that the current Planning Board, as it is structured, has not done that; that if the amendments to the ordinance are reviewed, there are several things that the Planning Board should do: 1) To prepare and recommend to the Board of County Commissioners ordinances promoting orderly development along the lines indicated in the comprehensive plan; 2) The Planning Board shall strive to promote public interest in and an understanding of its recommendations, and to that end it may publish and distribute copies of its recommendations, and may employ other means of publicity and education as it may determine; 3) To keep the Board and County Commissioners and the general public informed and advised as to these matter as it relates to the Land Use Plan; 4) The Planning Board may be required to submit in writing to the Board of Commissioners a written report of its activities, and an analysis of trends and issues with which it has dealt with in the previous year, as well as issues that may be forthcoming, pursuant to this ordinance; that in this respect, the Planning Board has failed; that there are several options at the Board's disposal; that one is to replace Planning Board members that will not necessarily be a "rubber stamp"; that they are after Planning Board members who will help the Board implement the Land Use Plan; that the experts provide them good advice and good recommendations; that that is what they are after; that this can be done a couple of different ways; that they can adopt the ordinance as suggested with a couple of changes; that they could abolish the entire Planning Board and reconstitute it; and that he would like to hear from other Board members on this issue.

Commissioner Barnes stated that he thinks the entire Planning Board should be terminated this evening; that in between the night's meeting and the next time the Board convenes, the five Commissioners each select two candidates plus the addition of an eleventh Planning Board member; that

this eliminates the possibility of a tie vote; that the terms of the Planning Board members would be for the period that the appointing Commissioner sits on the Board; that any new Commissioner coming in automatically has a choice appointing two members to the Planning Board that are his choice; that in the past, an outgoing Commissioner appointed someone that an incoming Commissioner was then stuck with that appointee for three years; that this eliminates all of this; that if a new Commissioner-elect approves of the appointee of the last Commissioner to the Planning Board, he can leave the appointment as is; that a Commissioner has to satisfy the people who elected him; that this might initially be "cut throat", but it would solve the overall problem now and for years to come.

Commissioner Vanderbeck stated that he likes the idea of terms coinciding with the term of the Commissioner; that he doesn't know if there are multiple terms allowed; that he is a little leery of terminating the entire Planning Board; that he is afraid of what it might entail, covering the bases, covering the knowledge base, and to have that immediate evacuation/replacement in one shot; that it sounds enticing, but that he sees too many problems with it.

County Attorney, Jep Rose, stated that he would want to further review the matter; that the Planning Board is a required board; that he believes that they serve at the pleasure of the appointing authority; but that he would caution the Board of Commissioners against abolishing the entire Planning Board unless they were terminated and a new board appointed at the same meeting.

Chairman Thompson stated that he felt the Board had received some good input on suggested changes; that whether they actually make those changes and amend the language, he thinks that it is late and that he wouldn't feel comfortable with abolishing the Planning Board at the night's meeting; that he wouldn't feel comfortable with changing the language and voting on it without the attorney's approval; that he feels like it should be deferred until the next Board of Commissioners' meeting.

Commissioner Lucier stated that he was comfortable with waiting until the February 5, 2007 Board of Commissioners' meeting to further address the issue.

By consensus, the Board agreed to address this matter at their February 5, 2007 Board of Commissioners' meeting.

Commissioner Vanderbeck stated that he was happy about how the process worked at the night's meeting; and that he thinks that everyone's input benefits the Board in their deliberations.

ADJOURNMENT

Commissioner Vanderbeck moved, seconded by Commissioner Lucier, to adjourn the regular meeting. The motion carried five (5) to zero (0), and the meeting was adjourned at 10:17 PM.

Carl Thompson, Chairman

ATTEST:

Sandra B. Sublett, CMC, Clerk to the Board
Chatham County Board of Commissioners