



Chatham County Planning Board Minutes February 7, 2017

The Chatham County Planning Board met in regular session on the above date in the Agriculture Building Auditorium, Pittsboro, North Carolina. Members present were as follows:

Present:

George Lucier, Chair
Caroline Siverson, Vice Chair
Bill Arthur
Brian Bock
Jim Elza
Tony Gaeta
Gene Galin
Jamie Hager
Emily Moose
Jon Spoon

Absent:

Allison Weakley

Other: Diana Hales, County Commissioner Liaison

Planning Department:

Jason Sullivan, Planning Director
Lynn Richardson, Subdivision Administrator
Kimberly Tyson, Clerk to the Board
Angela Birchett, Zoning Administrator
Kay Everage, Acting Clerical Assistant
Janie Phelps, Planning Assistant

- I. INVOCATION AND PLEDGE OF ALLEGIANCE:
Chair Lucier delivered the invocation and afterwards invited everyone to stand and recite the Pledge of Allegiance.
- II. CALL TO ORDER:
Chair Lucier called the meeting to order at 6:30 p.m.
- III. DETERMINATION OF QUORUM:
Chair Lucier stated a quorum was present to begin the meeting (10 members were present at this time).
- IV. APPROVAL OF AGENDA:
No changes were proposed to the agenda. Mr. Lucier approved the agenda.

V. APPROVAL OF CONSENT AGENDA:

Ms. Moose noted minor grammar discrepancies in the November 1, 2016 minutes regarding the Riggsbee Cemetery. It was discussed that “should any heir, related to the Riggsbee Cemetery surface that wanted access to the cemetery, that they would be granted access” on page 107.

In the October 4, 2016 minutes, there was a misspelling of ‘range’ on page 98.

Mr. Gaeta motioned to approve the consent agenda and the Board voted 8-2 for approval with Mr. Spoon and Ms. Hager abstaining.

VI. PUBLIC INPUT SESSION:

Two speakers signed in to speak. **R.J. Wirth** asked to speak under the subdivision topic about Cedar Mountain. **Charles** and **Martha Oldham** asked to speak during the zoning topic.

VII. ELECTION OF OFFICERS: 6:45 P.M.

Mr. Sullivan opened the floor for nominations for the Chair. Mr. Bock nominated Mr. Galin and Mr. Gaeta nominated Mr. Lucier. George Lucier won in an 8-2 vote. Mr. Lucier then opened the floor for nominations for Vice-Chair. Mr. Elza nominated Ms. Siverson and Mr. Bock nominated Mr. Galin. Ms. Siverson won in an 8-2 vote.

VIII. SUBDIVISION: 6:50 P.M.

Mr. Lucier turned the discussion over to Ms. Richardson regarding subdivision items.

Request by Chuck Lewis, Lewis Metty Development Inc., for a revision to sketch design for Cedar Mountain, Phase 3 to revise Condition #1 of the 2006 sketch design approval for Cedar Mountain, located off Jones Ferry Road, SR-1540 and Cedar Grove/Cedar Mountain Road, Baldwin Township, parcel #'s 1611 and 1721. Chuck Lewis, developer, and Samir Bahho. P. E. and Mr. R. J. Wirth, an adjacent property owner, were present.

Ms. Richardson stated that in 2006, the Board of County Commissioners approved a sketch design for Cedar Mountain, Phase 3 with two conditions:

1. The emergency access easement be widened to a minimum of 50 feet and be labeled as “50 foot wide dedication of public right-of-way and emergency vehicle access”.
2. The emergency vehicle access shall be constructed to a minimum standard of a 16 foot wide, all weather travel surface. A note shall be placed on the preliminary and final plat detailing the standards to which said access is constructed and future upkeep and maintenance responsibilities;

and that the preliminary plat submittal in 2007 included the required 50 foot wide dedication of public right-of-way and emergency vehicle access; and that the Board of Commissioners approved the preliminary plat. Ms. Richardson stated that in 2016 the developer constructed the required roadway, but, due to a stream crossing that was later discovered, the roadway and three (3) lots were taken off of the Phase 3A revised preliminary/final plat so that the Army Corps of Engineers could evaluate the stream; and that although the roadway was taken off the plat, that there were adjoining property

owners present at the December 6, 2016 and January 3, 2017 Planning Board meetings to express their concerns regarding loss of privacy and safety issues due to the road construction. Ms. Richardson stated that based on the concerns expressed by the adjacent property owners, the developer was now requesting a revision to the original sketch plan Condition # 1 to change the condition to read “A 30 foot wide private emergency vehicle access and utility easement be constructed at the end of the Eagles Crest cul-de-sac to the common boundary line of parcel #75530.” The reasons stated were:

1. To address the safety and privacy concerns expressed by the adjacent property owners. If the width of the right-of-way is reduced to thirty feet and the status is changed from ‘Public’ to ‘Private’, then that will restrict use of the emergency vehicle access road by the general public. The new plat with the revised sketch plan shows that all of the emergency access easement would be within Lot 30. The lot would have an uneven shape, but it would include the access, and it would be private. On the plat, it was stated that the upkeep of the road would be the responsibility of the owners of Lot 30. However, the developer is speaking with his attorney about the possibility of starting a Home Owners Association to consist of the remaining unsold lot owners and that the HOA would be responsible for future upkeep of the roadway, but a decision has not been made yet.
2. To reduce the environmental impact of the stream crossings. Reducing the width of the right-of-way and changing from public to private will require less piping of the stream and lessen the environmental impact; and that

the developer and John Stroud, North Chatham Fire Chief, have been in contact and discussed access to the roadway. Ms. Richardson stated that Condition # 2 of the 2006 sketch design approval of Cedar Mountain will remain unchanged.

The Planning Department recommended granting approval of the revised sketch plan for Cedar Mountain to change Condition #1 to read “A 30 foot wide private emergency vehicle access and utility easement be constructed at the end of the Eagle’s Crest cul de sac to the common boundary line of parcel 75530.”

Questions followed Ms. Richardson’s presentation. (inaudible) was confused that the road is there and asked if it was thirty feet currently. Ms. Richardson commented that the previous condition stated it had to be a “50 foot wide public right away”, and the change to a “30 foot wide private right away” will provide additional privacy; that the travel way is sixteen feet wide as required by Condition # 1. Mr. Lucier stated that decreasing the width of the road to 30 feet will provide additional buffers to the adjoining property owners.

Mr. Lewis stated that the other issue that needs to be addressed is about the current use of the right away by people on ATV’s, that if it is dedicated as a public right away it will be difficult to restrict access; but if it is converted to a private easement where there are restrictions posted, that the homeowners in the neighborhood will have more control over who uses the access.

Mr. Gaeta stated that at the last meeting he made the motion to add a Condition 3 and it reads “the developer shall install a locked iron gate across each end of the emergency

access roadway and provide emergency personnel with a key etc.” I think a private right away is an excellent idea. I know from the sketch plan it’s just at one end, at the end of Emily Lane is the proposed security gate, there is no proposed security gate at the end of Eagle’s Crest cul de sac. My concern is for the neighbors (Wirth, Porter, Fisher) that while that security gate at Emily Lane will stop ingress and egress from that end, people are not used to coming in from the cul de sac and I want to reiterate that I think a security gate be put there, and that if it’s private, that’s all to the good to the privacy of the neighbors there. I urge us to consider a security gate on each end, which is what we agreed to last month. I think the 30 foot wide private easement is an excellent idea.

Ms. Richardson asked what exactly was meant by saying an iron gate. Can we get some clarity on what that means?

Mr. Gaeta: as opposed to going out west where you have a post and a couple strands of barbed wire, something substantial where people can look at it and won’t say “oh, well I’ll just knock this thing down and ride up the road”.

Mr. Wirth: I believe last month when we talked about the gate the reason it was an iron gate is because there was one there previously and it was stolen. So we need something substantial enough that they can’t just walk away with it. I had just a couple points of clarification. There was no sketch involved or included with the letter, so I wasn’t quite sure of how things changed or what was going to change. The road is there, so I don’t know if going from fifty to thirty feet, it will change on paper, but unless we’re planting trees, then it will be from my property line. So I’m not sure if changing from 50’ to 30’ contributes to my privacy. From my point of view there’s two things: I don’t see a (inaudible) there’s grass on the side and it’s a gravel road and looks as nice as it can for a gravel road. My concern now is now that it’s there, and it satisfies the requirement, that we’re going to hand it over, make it private, it’s going to be a road that somebody hardly uses, and it’s going to go into disrepair. It’s there for emergency access, the county required it to be there, it’s built the way it was built, I think the county should just make sure it is maintained and put a gate on both sides like we decided last month to ensure the number of travelers is reduced. I don’t think we’re going to get trees back, at least not right away, not anytime soon. So let’s keep it usable for emergency vehicles as opposed to handing it off to somebody and five years down the road when a firetruck does need to use it, it hasn’t been maintained in five years, how do we know it’s still passable? So, I think since the county required it, and it was put in, and I’m not thrilled about it, but let’s just maintain it and keep it what it’s worth. Last time I was concerned with privacy and I’m still concerned with privacy, but again the road’s there so I don’t think there’s much to do there except put up a fence. But that lack of privacy, I’m concerned in the reduction of the value of our homes along there. Whether we have a gate up there we still have joggers, people on mini bikes and dirt bikes, and everything else, gates are easy to go around unless you’re on something big. So I was curious as to if we can get cable, internet, or anything else that we could use to actually bring services to the neighborhoods that don’t have it. That could sort of regain some value to the homes and make it beneficial to everybody not just emergency access to the new development. Is there anything there that we could coax utility companies to the residents of Emily Lane some sort of recurring in value.

Mr. Lucier: this is an access and utility easement so yes, they can use it.

Mr. Wirth: I actually don't know what's there. I know Emily doesn't.

Mr. Lucier: this will replace it as a private utility easement.

Mr. Wirth: I've been living here a long time along this road and I can tell you it doesn't really make it private. We still have traffic coming by, we still have people walking their dogs on the road that don't live on our road, and we have joggers. It's a road, people don't see a sign that says 'private' and then say "well, I guess I can't go down there". And even on the road now, there's "keep out" signs and that still doesn't keep people out.

Mr. Lucier: the iron gate should help.

Mr. Wirth: The iron gate should help, by keeping four wheelers and cars off.

Mr. Lucier: it should lessen the traffic on there and at least where they are maximize the privacy to you and the Corder's and to the other folks who live along that road.

Mr. Wirth: I believe that the gate will potentially minimize the amount of vehicle traffic, but I don't think it will minimize the foot traffic. Or even the mini bikes.

Ms. Siverson: I would imagine that the person who eventually owns Lot 30 will have something to say about that, too. Especially since it would be their problem.

Mr. Wirth: I think at this point we're dropping it on someone else and it'll be their problem. It's still going to be their problem, it's still going to be my problem.

Ms. Siverson: they may not want people on their property.

Ms. Hager: I'm interested in the HOA suggestion. And, how you might feel about that and your discussions with the attorney about (inaudible) and having more people's input. Would that be the type of thing that would allow more people to have a restricting access and how private it would be?

Mr. Lucier: that is a question for Mr. Lewis.

Ms. Hager: as of right now, you're looking at it for the potential lot owners that aren't there yet.

Mr. Lewis: the purpose now has somewhat changed some in that, it still goes back to the original intent that it's an emergency vehicle access in the event of another catastrophic situation such as Fran where they couldn't enter on the main road then they would be able to get back in there in the event that there was a fire, EMS, or police could come in there. But, with it becoming private, it would be very easy to put up a sign in the cul de sac that says "private road, no trespassing". I don't think it's necessary to put up another iron gate because emergency vehicles trying to get in will have to use a 'Knox Box'. A few of them are already in service, like Fearington, where the fire department has a combination or a universal way to get into these Knox Boxes and there's a key inside that unlocks the padlock. Well, the sheriff's department typically calls the FD to meet them at the gate to unlock the Knox Box in the event that there is an emergency that the sheriff's

department needs to go to. It's the same situation with the EMS. But the volunteer FD no longer keeps keys because they had too many keys, so now it's a Knox Box. But, it will be available for us to work something out that the proper authorities can get in there in the event of an emergency, and come through a permit gate. The problem with the gate previously was that it was just on little pintles and not secured, which allowed it to be lifted off and it was lifted away from there. But, you can attach a metal gate that can swing free but without being able to be lifted away. That would be our solution to put that, with the Knox Box, at the end of the property at the top of the hill and at the cul de sac and let the signage be there for the person that owned that lot that said "private property, no trespassing". I think that will keep anybody out of our neighborhood. Everybody would be informed that this is no longer a place to go walk your dogs.

We have looked into Ms. Hager's suggestion with the HOA and talked about it. We do have a few other private cul de sacs or accesses for a couple of houses and we generally have a road maintenance agreement signed by everybody that fronts those. In this case, it would be solely on Lot 30's property. What our solution was is to leave the rest of the remaining 15-20 neighbors into a HOA that is set up solely for the purpose of maybe dedicating \$100 or so amongst themselves as membership to the HOA and that would be \$1500 once a year which will be more than enough to maintain the road. Also, one thing that wasn't brought up was the crossing of the stream. Mr. Bahho is present.

Ms. Hager: I was hearing concerns about the privacy around this road.

Mr. Lewis: it's very natural around this area, there's lots of pine trees. Now there is a ten foot buffer where he can plant more trees in that buffer. We haven't touched that buffer, it's been there all along.

Ms. Richardson: Phase 3A, consisting of 16 lots is going to the Board of Commissioners on February 20 for review and action and the three parcels involved in the private easement will come at a later date.

Mr. Lucier: this private easement should be a part of this HOA for those 18 lots and be in favor of this and platted that way, so everyone has a piece of the pie. And they can use it to get in and out if they have to. Otherwise, just leaving it on one lot is asking for trouble.

The wording may look like: "the thirty foot private easement would be placed in HOA under remaining unplatted lots and it would be in their favor to use it and pay maintenance for it".

Mr. Lewis: I think it would better to leave the wording there that it is strictly for emergency vehicles in the event that there is an emergency. We should also allow Lot 30 can use it up to the point where it makes the turn, or in that area.

Mr. Lucier: the basis of it is, is that the emergency access is in favor of the 18 land owners and they pay maintenance on it so much a month.

Mr. Lewis: Lot 30 can use it as a driveway. Mr. Bahho speaks

Mr. Bahho: I'm the engineer for Cedar Mountain subdivision Phase 3. We found out that there was an intermittent creek that was not on the plan. We hired AWT (Agro-Waste Technology) to investigate that. After the investigation, the fish and wildlife department determined that it doesn't need any permit as such because of the small impact that it is .005 of an acre plus it is about 10 cubic yards. We have included a buffer for the stream.

Mr. Gaeta: I think two gates is preferable. I think this is a problem for both the developer and the adjoining property owners. And I think we need some cooperation here. If I were a property owner, I would go to Copeland's Apex Nursery, and I would buy a whole bunch of trees and other things and put up your own privacy wall. Even if it butts up to the easement. That could protect you from people walking by. Now, there's some other intrusions: you have dogs walking on your property? That's a trespass, you should have some claim to the sheriff. If you have ATVs over there, they're not on your property. You have a noise ordinance, possibly. But what you need to do until Lot 30 is owned by someone or the HOA takes over the access road, then I think your responsibility is "hey, we have trespassers on a private road". Call the developer, you own it, call the sheriff, and file a complaint. You've got trespassers on a road that you control. To give the property owners some protection. Someone just walking by? Block them out of your view. A dog going onto your property, file a complaint. An ATV going down the private road? Someone's responsible, you can't do anything about it, the developer or the HOA has got to step in and so do the property owners. It has to be cooperation between the two of them. And I'm not sure this planning board can do a whole lot more.

Mr. Lucier. I think you're right. Jason, Lynn, can we require that the assumed private easement be maintained by a Home Owner's Association?

Mr. Lewis: the HOA according to our attorney is not the way to go. It's better that as each of the last lots are sold in this phase to have them become part of a road maintenance agreement. Everybody would share and everybody in that area would be held to a joint standard as far as the road and the costs. As far as the gate on Lot 30 on the cul de sac, I think as someone moves to Lot 30 and begins to use it as a driveway, that signage probably won't even be necessary. In the meantime before we sell it, as developers, we can be responsible for getting the word out or putting some signs out, but I am sure that having a big iron gate is going to be very attractive to the person that is the potential purchaser of that.

Mr. Galin brings up the utility issue as he was formerly a Bell South and Verizon employee. He states that the neighbors would have to get together and ask for it. You should call the North Carolina Public Utilities Commission and file a complaint if you have tried getting services previously. By calling and filing a complaint, it will get up to the Vice President of AT&T and you will have a response within 24-48 hours. He also reminded that the county does not maintain roads, it is a state responsibility.

Mr. Lucier asks for a motion and Mr. Gaeta speaks again. He claims the recommendation by the planning department is fine but (inaudible).

Mr. Sullivan: The BOC will take up the issue we discussed last month about the gates. The gate issue will be next month.

Ms. Moose gets clarification on the handling of the intermittent stream. Mr. Bahho explains that a buffer was implemented.

Mr. Gaeta motions and Ms. Hager seconds the approval of the recommendation of the planning department of the revisions for Cedar Mountain Phase 3. No further discussion. 9 are in favor and 1, Mr. Elza, is opposed.

Mr. Sullivan encourages everyone to take the broadband survey so providers are encouraged to come to all areas.

IX. ZONING: 7:30 P.M.

1. Request from Kunal Enterprises, LLC c/o George Farrell, Jr. for a modification of Condition No. 3 of the December 15, 2014 approval to allow an additional twenty-four months to obtain the first building permit for the project site located at 55 Jordan Lake Commons Dr., Apex, new Hope Township.

i. Ms. Birchett speaks and Mr. Farrel is present. In 2014, Mr. Farrell came before BOC and ask for a revision to his conditional use permit as a storage area in the back. This was obtained in December 2014. With this approval, that is where the state said that you can buy other property in the same watershed district to do an impervious surface offset. This parcel is located off Marshall Rd. and is 22 acres and 17 acres are being deed restricted to be open space reserved impervious surface for a business site. Right after this got approved, the state then changed the watershed protection regulations to incorporate the nutrient requirements for Jordan Lake. When Mr. Farrell started checking into what he would have to do for his storm water pond for this property and complying with the new regulation for the watershed, just to get started was going to run around \$250 thousand. In 2016, the legislature overturned that and took it back out of the regulations. Mr. Farrell has begun work to develop the site as it was approved by the commissioners. But he does not have enough time to get the first building permit before Condition No. 3 required a two-year requirement before it happened. So this is a two year extension for he is ready to move forward.

Ms. Hager: What storm water management is now required?

Mr. Sullivan: He still has to comply with the storm water ordinance and requirements. He still has to comply with all of the standards. Certain sites didn't need stipulations, so the litigation payment would be nearly \$250 thousand. So, he still needs to meet the storm water requirements, it's just that certain requirements were removed by the state that he didn't meet previously.

Ms. Hager is unsure about the decision with a law that is going back and forth. Mr. Galin explains that they are not pushing these concerns aside, in this case they're just granting an extension.

Mr. Galin motions to approve the planning department's recommendation to grant a twenty-four month extension of Condition No. 3, and Mr. Gaeta seconds. It is approved in a nine to one vote with Mr. Elza against.

2. Request from the Chatham County Board of Commissioners for a rezoning for all or a portion of parcels 11005, 79836, 85078, 85079, 11026, 10992, 11014, and 11023 owned by Minnesota Mining & Mgf. (3M), containing approximately 1,670 acres and located at 4191 NC 87 S; 9691, 83936, and 9257 owned by Martin Marietta, containing approximately 179 acres and located on St. Luke Church Rd; and 10156 and 67072 owned by General Shale Inc. and Cherokee Sanford Group LLC, containing approximately 382 acres and located on Rosser Rd, from R-1, Residential to IH, Heavy Industrial. Representatives for all companies are present.

Mr. Sullivan: to give some background, August 15, 2016 the Commissioners adopted residential zoning for three hundred eight-eight square miles of the county that was previously unzoned. The areas were zoned as R-1 to R-5, so these three industries and their property in these areas and their uses, came before that time. During the same meeting, an officer initiated the process of rezoning these properties from R-1 to Heavy Industrial. It took several months after contacting representatives from each of these industries to make sure they were comfortable with these rezonings. In January 2017, there was a public hearing held on these rezonings. General Shale owns approximately 382 acres within two areas. On these properties there are either actively occurring mining operations or there are active mining permits issued by the state. With the Martin Marietta properties, there are three that are involved with a total of about 179 acres. With the 3M properties, they cover about 2,126 acres. What is presented in January of 2017 at the public hearing with rezonings to rezone to Heavy Industrial in these areas and to add an additional 500 feet of what was zoned in 2007 for the properties owned by 3M. One property owner spoke against General Shale for rezoning in concern with Industrial zoning next to residential areas. Also requested a buffer be larger for the project. Nick Robinson is present for General Shale. There was also a discussion by the Commissioners about buffer work and (inaudible). What they thought were minimum setback requirements. After the meeting we came back to the NCP environmental program staff for the minimum setback requirements. There aren't minimum requirements by the state, they are just outlined in the permits. There was a question from the planning board chair for the 3M representatives about requirements for buffers for their projects which is a minimum of a 200 foot setback. Considering a rezoning in the zoning ordinance are: (inaudible) noted by the Board of Commissioners with the application. The second deals with change with changing conditions in the area with public health safety and welfare. The application with the proposed heavy industrial zoning with the type of uses currently in operation or approved in the preexisting properties that include mining and rock crushing and included in the ordinances the regulations that the county will sustain public health, safety and welfare. It's also noted that any additional use of the property would have to meet all of the conditions in the zoning ordinance. The third item is the manner in which the proposed (inaudible) that is included in the application of Land Conservation and Development plan includes to stimulate current activities and they will be supported in existing commercial industrial areas. (inaudible).

One item to note is that this is a general rezoning case. The board should consider all of the uses that are permitted with the heavy industrial zoning classification. We cannot impose conditions, we as staff cannot recommend any conditions, and commissioners can't approve any conditions as that constitutes contract zonings. We also have to consider the consistency statement to make a recommendation on that. So what has been included in the recommendation is regarding the consistency statement and the

other in regards to the recommendations on whether or not to approve or deny the zonings. There are representatives from all three industries.

Mr. Robinson is representing General Shale, Mr. Barber is representing 3M, and Mr. North is representing Martin Marietta. There is public input from Mr. Oldham.

Mr. Oldham: I'm here with my wife Martha and we are property owners in Chatham County. We respectfully ask that you consider, at least, a 500 foot buffer between our residential property and the property requesting the heavy industrial zoning. In our case, it is General Shale. As I understand it, residential is on one end of the scale, and heavy industrial is on the other end of the scale. What is being proposed with you approving heavy industrial zoning in the middle of thousands of acres of residential property? This 500 foot buffer that I request, I surely would not expect it to be less vacant, for General Shale could put it to good use and plant trees, make it a pasture. The buffer than I am requesting would require much less than one percent of their property of 382 acres. There has been a lot of discussion of fracking in Chatham and Lee County. My wife and I have visited many natural gas drill sites and I can tell you that drilling for gas will be a cake walk with what people are asking for heavy industrial zoning. There has been some mining done already by General Shale and Cherokee Sanford on property next to my property. They have gone right up next to the property line, not leaving a buffer at all. If that's an example of what they're going to do in the future, I think that my respectful request of a 500 foot buffer should be considered.

Mr. Lucier asks if the permit required a buffer. Mr. Oldham responds that he has heard it requires a buffer, but that he has noticed this buffer is possibly being violated.

Mr. Robinson: General Shale received its permit before this area was zoned. There should be a 50 foot undisturbed buffer on General Shale's property, and there is a 100 foot buffer along the disturbance buffer adjacent to Mr. Oldham's property. The 100 foot buffer only extends to the extent of the excavation area. It is a general use and not a conditional use. This area had only become zoned because of the commissioner's actions in August 2016. Ms. Siverson asks about why the multiple buffer distances, and Mr. Robinson responds that the permit was most likely issued with those conditions. To Mr. Robinson's knowledge, the entire parcel 67072 is subject to the permit to mine. They would have to revisit the permit and gain additional authority to expand the mining area.

Mr. Gaeta: why does Mr. Oldham have a 100 foot buffer along his property line whereas no one else has one?

Mr. Robinson: it has something to do with when the permit was issued. But, it is what it is.

Mr. Lucier: I can understand the concern with the buffers. It was very clear from the Board of Commissioners that any existing businesses would be rezoned to heavy industrial, which is what their current use is, so they won't be considered nonconforming. Mr. Sullivan told us that we don't have the authority to do anything with the buffer. To me, it's do we keep our promises and rezone as we said we would or we don't. It's a yes or no question.

Mr. Sullivan brings up the table of uses discussion. Any use, permitted by right, is allowed within the Heavy Industrial zoned areas. Hypothetically, in the March Commissioner's meeting, the rezonings may be approved and the company can come and say "I want to do this use", they will ask if it's a permitted use, and they still have to go through all the permitting. He says there are a lot of moving parts and that this is not something that happens overnight or within a months' time . Until this happens, all of these properties are subject to whatever standards are in effect at the time they have come into use.

Mr. Lucier: there is a doctrine of Vested Right. If you have a permit pursuant to a government approval and you have made investment pursuant in that permit, then you have a vested right. It wouldn't matter if we did this or not, they have a vested right to do the work.

Mr. Gaeta: it is my impression that the mining operation has gone right up to the border and ignored the setbacks of Mr. Oldham's property. He asks if he has witnessed this intrusion or if he is just going off of his impression. It's a matter of clarification. He's concerned that the property owner is complaining that these giant cooperation's are ignoring barriers. Representatives from 3M state that the Mining Commission visit areas on a regular basis to inspect the operations and bring the permits with them to verify that the cooperation's are compliant with their permits.

Mr. Sullivan: rezonings need to occur first before the table of conditional uses. All of these properties are subject to a stream buffer watershed protection ordinance. But, there are provisions that allow them to (inaudible).

3M is requesting a 500 foot reduction from what was zoned in 2009 along Pittsboro-Moncure Road. This will go from 1500 to 1000 feet which is requesting a rezoning of the 500 feet.

3M: there is an over burn stockpile area. We have a complicated storm water permit. The 500 feet we're asking for is not part of the disturbed property of the over burn pile, but part of the stream where the storm water goes into. We can't redesign backwards as it's already been approved. We just need the 500 feet so we can maintain the storm pond. The storm pond is in a different zone, so without that 500 foot buffer, it is difficult to maintain. Mr. Sullivan states that this area is not rezoned residential since they are actively in the permitting process. That portion of the property would be legal non-conforming. It wouldn't be out of compliance with the zoning ordinance, it would be a non-conforming situation for a portion of the project, but the bulk of the project would be consistent as heavy industrial, which would have this over burn area and the storm water pond in its own district. Mr. Lucier says that will be a non-conforming use in a residential district without changing the zoning, and Mr. Sullivan states that is how it would be handled by the staff. It wouldn't stop them from using it.

For 3M, when this was proposed in 2007, their plan then didn't have a need to use property within the 1500 foot buffer and so they didn't ask for it then. But when they resigned and went through the \$250 thousand of engineering to properly take care of the storm water. 3M is saying rather than have the 1500 foot buffer, reduce it by 500, and so they respectfully ask because it is their property, they have taken good care of it. Those

of you who were here when 3M first announced they were putting a mine here in the late 1990s, I think we'll recall the county commissioner meetings and others who were concerned, about how terrible it is for the neighborhood to have a mine there. And I think what is telling tonight is when Mr. Zieglmeier started managing the mine there in 2002 and has operated there ever since, this has been publicized to all of the dozens of adjoining property owners about this rezoning hearing for this mine, and nobody is here. They've been a good neighbor and none of the neighbors reject this rezoning request.

Mr. Lucier moves to the portion of the 3M property that is within Pittsboro's jurisdiction. He asks what it is currently zoned. 3M replies that it is zoned as residential and it is surrounded by Chatham Park. They are in the process of rezoning that area with Pittsboro.

Ms. Moose asks some questions directed towards Commissioner Hales. She asks what her timeline is for updating the people how this will happen. Commissioner Hales replies that Mr. Sullivan explained it well. The three quarries need to be handled first before the table of uses. Ms. Moose states that at any time before this is done, any permitted by right that is heavy industrial can be taken out on these parcels with no input from citizens. Commissioner Hales responds (inaudible) the individuals here can be asked if they have plans for something else. Ms. Moose asks the individuals representing the companies if they plan to sell any of their impacted land during this interim period. 3M states they haven't sold anything since they bought it. Ms. Birchett states that we are approaching the ten year anniversary where they started this zoning and that not one heavy industrial company has come in with any changes, modifications, or change in use of their properties. And their uses are the same then as they are now.

Mr. Bock moves to approve the request by the Chatham County Board of Commissioners to zone these parcels as outlined from R-1 residential to IH heavy industrial. Mr. Arthur seconds.

Mr. Lucier asks for further discussion. Mr. Gaeta asks for clarification about why 3M is requesting a 500 foot reduction to their 1500 foot setback. Mr. Zieglmeier responds that when they designed the footprint for the over burn storage pile, it was very complicated. We saw the drawing of how it was shaped out and we had to work around the streams. It had to be big enough for the quarry and when it was laid out, the storm pond that supported the over burn pile cut in to the 1500 foot. We're asking for the 500 foot so we can have room to maintain it and stay within the existing zoning of the property. Mr. Lucier is curious if this can be approved in a residential area. Mr. Sullivan states that because the site was unzoned, they have the ability to stay in a non-conforming use on the property they own under the non-conforming creations, even if it's residential.

Mr. Lucier asks for the vote. It is approved in an 8-2 vote, with Ms. Moose and Mr. Spoon opposed. Mr. Gaeta motioned to approve the consistency statement, Mr. Bock seconds. It was approved 9-1, with Ms. Hager opposed.

X. Comprehensive Plan Update and Discussion: 8:15 P.M.

Mr. Elza reviews the goals of the Comprehensive Plan.

1. Preserve the rural character and lifestyle of Chatham County.
 - i. I want to point out that if you look at some of the subdivision and commercial activity, you can't do the same thing and expect different results. It's probably going to have to be doing some different things in the future to have some preservation of a rural lifestyle. Or, this county will look like Orange County, Wake County, or something like that. That's not a rural lifestyle in my opinion.
 - ii. Mr. Lucier states that a public hearing will likely happen and that the planning board will evaluate this and make the recommendation of changes to the Commissioners. It will be important for all of use to attend the public hearings on February 21, 22, and 23 from 5pm-7pm. I encourage all of you to go to at least one of those.
 - iii. Mr. Elza states there is a lot of stuff coming. The comp plan has been worked on since last January. We are on step three of four, and three is to kind of finalize the map of what we've got here. So you're going to see the draft of what we've got. These goals came from a survey that received around 1700 responses. These goals came from the people in the county. That's what you do in a plan, you ask the people.
2. Preserve, protect, and enable agriculture and forestry.
 - i. The agriculture community has quite a bit to say. The survey is available online. There were only about 147 respondents to the survey, but many farmers may not have internet to take the survey or may not have taken the paper survey.
 - ii. Mr. Sullivan states that the survey was broadcast throughout the county.
3. Promote a compact growth pattern by developing in and near existing towns, communities, and in designated, well planned, walkable, mixed use centers.
 - i. If you have a monster growth coming, the projection is 28,000-48,000 new people in the next 25 years. It's a broad shot, but if we did give everyone a couple acres like we've been doing, we'll need about 20,000 acres to go under the subdivision knife. I think this goal is to focus growth in the cities where there can be compact growth.
4. Diversify the tax base and generate more quality, in-county jobs to reduce dependence on residential property taxes, create economic opportunity and reduce out-commuting.
 - i. That's a problem because we're primarily residential. We don't have a lot of industrial or commercial tax base. It's about 92% residential tax. Also, we are commuters. There are 20,000 commuters every day in this county. We need to try to focus on jobs to get more tax base in this county.
5. Conserve natural resources.
 - i. We've heard a lot about this in the rezoning discussions. I want you to look at the land use map. I want you to see that the goals are in there. That's how we got there. If you look at the agricultural area, which is quite a bit of the west side, there are four different tracts overlapping. Where there's farms, where there's soils and availability, and they overlap four things that came up with a consistent proposal. You also see a big blotch of conservation land along the Rocky and Haw River, where the objective is to preserve the land and preserve the habitat. If you cut the habitat too hard, you get road kill. There are now trails and paths when you have a subdivision which puts more value on the conservation. We also have major centers; town centers, community centers. The maps describe these centers and display where they will be.

- ii. We have to figure out where our agricultural land is. We will see at the open houses what kind of comments we get. My theory is that at the far East end of the county, you have a lot of open space with the lake. In the middle, Pittsboro, that's where you want to focus to build if you can. Then you have the agriculture land in the west. So, you have a county divided into three parts. That's where we're at. It's the focus growth of Pittsboro, Siler City, Goldston, places where we have sewer, Briar Chapel. We're going to have growth and thousands of people every year. We're the second fastest growing county in the state. If you want to keep those first two goals in mind, you have to try to do something to make that happen. I don't have a lot more to say.

Mr. Sullivan states that the steering committee has spent a considerable amount of time on the goals. He explains the process of coming up with these ten goals. The survey helped put the goals into a hierarchy of what was most important to the citizens of Chatham County. The goals have the possibility of changing. The community meetings and open house discussions will be able to help citizens understand the map better. In the conservation areas, it doesn't mean development would completely stop, but we would encourage developers to conserve certain areas. The regulations don't change because of the comprehensive plan.

Mr. Arthur is curious as to if or when there will be a map made that shows the zoning areas. Mr. Sullivan states that it may say that in this area, this district addresses 'A, B, and C'. Mr. Arthur comments on the integration of transportation. He wants to know who enforces this. Mr. Sullivan states that there are many moving parts and it's a difficult process. Our roll as far as our transportation goes is to work with the MPO and RPO.

Mr. Lucier states there is a requirement to review the land use plan with Cary. Mr. Sullivan replies that this will happen in the late fall. Cary is wrapping up their comprehensive plan, so they're not recommending any changes to that. Mr. Lucier says the Cary plan is pretty much unchanged. They are moving west, but not very fast. The plan with Cary is kind of a model we need to go with Siler City and Pittsboro.

Ms. Moose asks about groundwater supplies and Mr. Sullivan states that that is beyond the scope of the contracts. The steering committee has talked about this a couple of times. It's a complicated discussion.

Mr. Elza reiterates the community meetings on February 21, 22, and 23 from 5-7 P.M. He mentions the open space plan and that it is enhanced. Recreation is probably, for us, economic development. That's something we have to pay a lot of attention to. What you see on this proposed plan is that you don't have to pave every trail, you can have a natural trail, and that will work just as well.

Mr. Sullivan states that the basic agenda for the public meetings February 21, 22, and 23 is that there will be a rotating presentation and posters up for citizens to look at and ask questions. The consultants will set up these stations that outline the goals and objectives. This is also so we can hear feedback from the citizens.

XI. NEW BUSINESS: 8:50
No new business.

XII. BOARD MEMBERS ITEMS:

No board members items.

XIII. PLANNING DIRECTOR'S REPORTS:

Mr. Sullivan briefly revisits the minor subdivisions reports. He states there is a Public Hearing February 20 for the rezoning for a piece of adjacent property owned by the Alcohol Beverage Commission. He introduces Janie Phelps, the Planning Assistant for the planning department.

XIV. ADJOURNMENT: 8:53 P.M.

_____/_____
George Lucier, Chair Date

Attest: _____/_____
Kimberly J. W. Tyson, Clerk to the Board Date
Janie Phelps, Planning Assistant