



Chatham County Planning Board Minutes August 1, 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
Tony Gaeta
Emily Moose
Allison Weakley
Jamie Hager
Gene Galin
Jim Elza

Absent:

Jon Spoon

Other: Diane Hales County Commissioner Liaison

Planning Department:

Jason Sullivan, Planning Director
Lynn Richardson, Land Planner II/Subdivision Administrator
Angela Birchett, Planner II/Zoning Administrator
Paula Phillips, Clerk to the Planning Board
Janie Phelps, Administrative Assistant

- I. INVOCATION AND PLEDGE OF ALLEGIANCE:
Mr. Gaeta delivered the invocation and afterwards everyone stood and recited the Pledge of Allegiance.
- II. CALL TO ORDER:
Chair Lucier called the meeting to order at 6:33 p.m.
- III. DETERMINATION OF QUORUM:
Chair Lucier stated there is a quorum (11 members were present, one absent)
- IV. APPROVAL OF AGENDA:
Chair Lucier stated there are a few changes in the minutes, he will move the minutes up and there is not consent agenda. They will vote at the end of the meeting after the Subdivision and Zoning items.

V. APPROVAL OF CONSENT AGENDA:

Minutes: Chair, Lucier said the minutes will be moved to the end of the meeting for a vote.

VI. PUBLIC INPUT SESSION:

The Chair announced that Public Input for the Polks Landing Retail site will be moved towards the end of the meeting prior to the board's discussion on this item. There were a total of 9 citizens signed up to speak, 8 were there for the Polks Landing proposed retail site and 1 spoke on the Morgan Property request regarding SD East as follows:

Public Input- Briar Chapel SD East-

- Meyer Liberman of 250 Fearington Post Pittsboro said that he was speaking from the perspective of 131 homeowners and approximately 260-300 people who reside in Phases I and II of Fearington Village's Historic District and who have been most negatively impacted by Briar Chapel/Newlands Communities SD East. Some concerns mentioned was that they have found their environment drastically will be degraded by noise and lights from the development, clearing away much of the forest protections. He noted that the residents moved to Chatham County because of its bucolic, quiet and pristine nature. He reported that they would like to go on record that we hereby request that in any final development plan approved by the board, that there will be included some reasonable provisions for remediation by the developer for issues outlined here. Preliminary meetings with landscape planners indicate that plantings and/or fencing along the perimeter line would be helpful with easing the noise and sighting problems. He also said that they were not opposed per se to responsible growth in Chatham County but feel it to be the developers responsibility to remediate some of the most egregious negative effects and to prove they are "Green".

Mr. Liberman provided a copy of his statement and it is filed in the Planning Department's Planning Board Meeting binder in the August section.

Public Input-Retail request (Item IX-Zoning)

- Peggy Myers of 105 Fallen Log Chapel Hill thanked the Planning Board for their time this evening. She has been a 30 year resident of Polks Landing. She provided a summary of main points that she and her neighbors provided during the June BOC Public Hearing. She would like to say that approving the development of Publix would negatively impact the neighborhood, resulting in increased traffic, lighting, noise and pollution. She said that 97% of the homeowners in Polks Landing oppose this development. As the board members and staff saw at a recent site visit, Polks Landing is a heavily wooded and a light traffic neighborhood. She feels that it is not operable for development and not shaped correctly. She believes that other sites could accommodate the proposed grocery store and are more appropriate. There are many concerns with storm water management facility and other questions that have not

been sufficiently addressed by the developer. Lack of demand for this type of development. As residents they do not see benefits to this proposal that outweigh the significant cost. They urge that rezoning request be denied.

- Keith Gerarden of 107 Polks Trail, Chapel Hill said that some of his concerns are road improvements have not yet been defined and are unclear. He feels that the traffic coming in to the development, turning left would increase the chances of accidents. He rides his bike to work daily and worries about the increased traffic and safety of bike riders. He said that Polks Landing is still being developed and it will change the character with the new proposed development. He asked that the board please consider all the issues and elements as they think about this request.
- Staples Hughes of 109 Shaustone Chapel Hill spoke and said that he has been living in Polks Landing for almost 30 years. He sent an email with his concerns two weeks ago. He stressed that green space has value, residents in Polks Landing have paid their dues and have already been made to make a sacrifice. He said that Polks Landing is still being developed and this request would change the character of their neighborhood and area. He said that they do not need this new development and he requests the board to think very carefully about this. He also noted that the drainage field is huge, the developer has in mind multiple fast food restaurants in addition to the Taco Bell being built in this area and this is the last thing they need.
- Chris Tommerdahl of 107 Polks Trail, Chapel Hill started by saying Emily Sutton of Haw River Assembly had sent an email at 5:15 today to staff and she would like to summarize it quickly. There are strong concerns about environmental impacts to Pokeberry Creek. Discharged water from the proposed stormwater pond could cause further erosion to the slopes. Concerns with the eroding banks carry sediment, which holds high levels of nutrients into the watershed area. Downstream of the proposed site, Pokeberry Creek flows through wetlands and beaver ponds that provide wildlife habitat. The wetlands act as filters to help clean up much of the sediment that are washing into Pokeberry Creek. Due to the critical condition of Pokeberry Creek they ask you to vote against the rezoning of these parcels, to avoid negative impacts on human health, drinking water as well as pollution mitigation costs.
- Ms. Tommerdahl continued, saying that Briar Chapel is already zoned for commercial use, why not put a store in this area or another location. The developer of Briar Chapel has said that the number one thing the residents there want to see is a grocery store. Wouldn't it make sense to put a store in this area where people are eager to have one? It seems like an easy solution to prioritize the needs of our community as a whole.

- Kate O'Brien of 316 Creeks Edge, Chapel Hill spoke saying, that she has lived in Polks Trail for 20 years. She noted that businesses have migrated to other locations. She spoke about the competition and sales of stores such as Great Clips, Triangle Vision, Town and Country, UNC Pediatric, ABC Stores have all moved to newer sites for renovation purposes. This has resulted in vacant retail space around 30k sq. ft. She asked are we absolutely sure that the development would not simply draw from our existing pool and vacancies and add to them? Do we have the population density or shopping habits to support this type of development? She requested that the board vote against this zoning request.

- Angela Bond lives at 111 Creeks Edge in Polks landing. She would like to remind board members of what Newland Communities said that there is a major paradigm shift in retail; that typical strip malls are not surviving. With that said she wanted to talk about the competition and that it is an incomplete analysis without including Amazon, Wholefoods in these discussions. Brick and mortar grocery stores are changing as we know them as people suffer the concrete jungle. She read various headlines about closing grocery stores. Our area could just be over saturated or the articulated demand for these stores are over exaggerated. Think about the long term negative consequences and request that the board vote against it.

- Heid Zehudl of 103 Noddie Oak, Chapel Hill has lived in Polks Landing for 20 years. She spoke about the residents who bought their houses in Polks Landing because of it being a residential neighborhood. She and others feel that approval of this request will affect their home values. There is not a good buffer from, noise, crimes, odor, lights and sounds. It is impossible even now to get out of Polks Landing onto 501 safely and this development would make it more difficult. She feels it would be a fire hazard trying to get out of the area where the proposed development would be, if they would need to get out of the neighborhood it will cause a bottleneck. Traffic concerns with all the development would become worse. There have been a lot of accidents in the 20 years she has lived there. It makes more sense to put the store in the Briar Chapel development.

- Joe Kinder lives a 112 Hidden Valley Drive, Chapel Hill, NC in Polks Landing, he and his family have been there for 15 years. His house is 38' from the property line of where the proposed development would be built. He was very opposed at the start. Then as they moved further along with the process, he has had a chance to provide input and set the tone and standard for the neighborhood. The developer has been open to the barrier and wall they will provide since he is closest to the proposed site. Examples when looking at Trader Joes, they have healthier foods for the area and Publix would offer the same. He also feels the development would add to the value of his home and others.

VII **SUBDIVISION:**

1. Request by Michael Poe for a **twenty-four (24) month extension of preliminary plat to extend the current preliminary plat expiration date for Cattail Creek Subdivision from November 15, 2017 to November 15, 2019, consisting of 21 remaining lots**, located off White Smith Road, S. R. 1506, Hadley Township, parcel #60065

Ms. Richardson reviewed the agenda notes for this request as follows:

Introduction & Background- Some details noted were:

- o Zoning District : R-1
- o Watershed District: WSIV-PA / Jordan Lake Buffer Area
- o Water Source: Private wells
- o Septic: On-site and off-site septic and repair areas
- o No floodable area

She reported that this subdivision review is under the Pre-2008 Subdivision Regulations. Cattail Creek received Sketch Plan approval in 2004 for 76 lots and Preliminary Plat approval in 2005 for 72 lots. There are 21 lots remaining to be final platted. The current preliminary plan for the remaining 21 lots will expire on November 15, 2017 unless an extension request is approved by the Board of Commissioners. If the current preliminary plat expires, any future development of the property will be reviewed and approved under the current Subdivision Regulation.

All lots in Cattail Creek Subdivision in Phases 1 through 5 (this includes a 5 lot minor subdivision approved in 2004 prior to the major subdivision submittal) have received final plat approval and to date 55 homes have been constructed. The minimum lot size is 1.50 acres with an average lot size of approximately 2 acres. The Permit Extension Act of 2009 extended the preliminary plat expiration date to November 15, 2013 and the developer has requested and received two (2) additional extension requests to establish the current preliminary plat expiration date of November 15, 2017.

Ms. Richardson continued to say that the request before the Board is for a twenty-four month extension of preliminary plat to extend the preliminary plat expiration date from November 15, 2017 to November 15, 2019. The developer, Michael Poe, has stated in his extension request letter that the reason for the extension request is based on the past housing market decline in the Siler City area, but that, the current housing market appears strong enough to support completion of the project. As stated above there have been 55 homes built to date in Phases 1 - 5. Mr. Poe is marketing the balance of the property and has a potential buyer that is interested in completing the project as originally approved. The potential buyer is here tonight as well as Laura Grace, the real estate listing agent representative. In 2008, the Jordan Lake Riparian Buffer requirements were required to be implemented by the Legislature and the parcel, #60065, is located within this area. Per the NRCS maps there are possibly two (2) additional features that may

require an undisturbed riparian buffer. Drew Blake, Environmental Quality Specialist, made an on-site visit and determined that only one of the features will require an undisturbed buffer. If the extension request is approved, the feature and undisturbed riparian buffer will be shown on the final plat.

The erosion control permit previously approved by Chatham County in 2013 has expired. The developer will be required to obtain a new erosion control permit prior to any land disturbing activities. Based on the pre-2008 Subdivision Regulations, no stormwater permit is required from Chatham County.

The lots in Cattail Creek Subdivision are accessed by NCDOT public, state maintained roadways. The road plan was approved by NCDOT in 2005. Mr. Poe petitioned NCDOT to take over the maintenance of the roadways in Phases 1 through 5. Planning staff has received a letter dated July 7, 2017 from NCDOT stating that Rebecca Lane, Isabela Court, and Madison Court will be state maintained. Staff received verification dated July 14, 2017 from Justin Richardson, Assistant District Supervisor, NCDOT, that a new road plan permit will not be required for the remaining lots unless the road plans change from the original approval. The Cattail Creek stream crossing was completed in 2008/2009 per the conditions of the Army Corps of Engineers 404 permit obtained in 2005. A NCDWQ 401 permit was not required based on the amount of disturbance for the road crossing and regulations at that time. There are no additional creek crossings necessary to complete development of the balance of the property.

Staff Recommendation-Ms. Richardson reported that the Planning Department is not making a recommendation on the request as this is a policy decision to be made by the Board of County Commissioners. Laura Grace, Real Estate Agent is present for questions.

Board Discussion-Some specifics noted were:

- Is Cattail Creek a perennial stream?
- In the recommendation it says that it is a policy decision, why is it different?
- Cattail Creek drains to Terrell's Creek which is designated by the state as an important Aquatic Natural Area.
- Provide an additional 50 foot riparian buffer along Cattail Creek
- The NRCS stream is not shown on this request and will it be shown on a future request?
- Concerns about approving a preliminary plat that does not show accurately what has to be buffered?
- If the extension request is not granted, any future development of the parcel will have to follow the 2008 subdivision regulations?
- Prudent to put a 100' buffer along with storm water controls to prevent run off during construction and post construction.

- Clarity-will the Board see the Final Plat?
- Can we add the 100' buffer as a condition to this approval?

Ms. Grace, the real estate representative for the property, said that it would be prudent to mention why it is important to grant the extension of the request. One of the things she has seen as a seller of real estate in Chatham County is escalating prices of real estate. She said that it is desirable to live in Chatham County but, most first time home buyers can't afford homes in Chatham County with prices ranging from \$400k to \$600k. The only other option is to buy in a smaller lot subdivision, where you can buy a home in the \$300k. The proposed developer is a builder, their goal is to keep the land in a way that reduces the destruction to natural environment, keep the large lots and keep homes under \$350k for buyers. She urges the Board to recommend approval of the extension request because it would be challenging to go through the current subdivision process since Phases 1 – 5 were approved under the pre-2008 process which was a different process. Ms. Grace stated that the potential buyer knows that he can't begin any construction of the roadway until he obtains a new erosion control permit and will make sure devices are in place to help with water runoff. They are serious about the purchase and have put a lot of work into this already, she and the developer feel that it offers a lot of what Chatham County needs.

Ms. Richardson answered some of the Board member questions as follows:

She said that yes, Cattail Creek is a perennial stream. It has a 50' riparian buffer in place based on regulations in place prior to 2008; that if the remaining acreage was developed under the current regulations, that a 100' buffer riparian buffer would be required; that there were 72 lots shown and approved by the Board of Commissioners on the preliminary plat and there are 21 lots remaining. Ms. Richardson also stated that there are 5 lots that were approved as a minor subdivision and were not part of the major subdivision and are not included in the 72 lots approved at preliminary plat. Ms. Richardson stated that some lot line revisions may be necessary, but the road layout has to remain substantially the same. It was also stated that the Planning Department had not made a recommendation on other extension requests and that these types of request are a policy decision to be made by the Board of County Commissioners regarding subdivisions approved under the pre-2008 Subdivision Regulations and should they be allowed to be completed under the same regulations or required to meet the current standards.

She also reported that the stream identified on the NRCS map will be shown on the Final Plat with the required riparian buffer. Because the stream was not shown on the USGS Topo map at the time the project was approved in 2006, it was not required to be shown or buffered. She stated that the property is in the Jordan Lake Buffer Area, and the stream and required riparian buffer will have to be shown on the final plat and that it falls under the new legislative standards. There are some offsite septic lots in the front sections. The general configuration is correct for the areas already developed.

Ms. Richardson stated to the Board that if they grant the extension; the project will continue to be developed under the pre 2008 subdivision regulations. If the extension request is not granted and the existing preliminary plat expires, any future development will be regulated under current subdivision regulations. Approval of the request would

allow the developer an additional 2 years to build the roadway; obtain septic permits; and then present the final plat to the Board.

Chair Lucier addressed the question from one member about adding a condition regarding the 100' buffer. He indicated that the developer could volunteer to put an additional 50' wide buffer on the east side of Cattail Creek, but that the Planning Board cannot require something that the pre 2008 regulations did not require. He also noted that the lots/houses on the left hand side that have already been developed would not be subject to the additional 50' buffer and the homes on the right side would be.

Motion to approve-Mr. Geata made a motion; seconded by Jim Elza to table the request until the September 5, 2017 Planning Board meeting in order to give the developer time to consider and respond to the Board's concerns/requests and then the Planning Board will act on the 2 year extension request. The motion passes 8 in favor and 2 opposed, Brian Bock and Gene Galin.

2. Request by Freehold Communities on behalf of F-L Legacy Owner, LLC for subdivision **Preliminary Plat review and approval of The Legacy, Phase 4A2**, consisting of 43 lots on 8.56 acres, located off Big Woods Road, S. R. 1716, Williams and New Hope Townships, parcel #17378

Ms. Richardson reviewed the agenda notes for this request as follows:

Introduction & Background- Some details noted were:

- o Zoning: R-1 with Conditional Use Permit for a Planned Unit Development
- o Watershed District: WSIV-Protected & Jordan Lake Buffer Area
- o Water Source: public, Chatham County
- o Sewer Source: private, waste water treatment plant
- o Road type: private, paved
- o Within the 100 year flood plain: No floodable area in Phase 4A2
- o Reviewed: Under pre-2008 Subdivision Regulations

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

at Jordan Lake, Phases Two and Three is recorded in Book 1593, Page 272. The recorded recombination plat can be viewed at Plat Slide 2011, Pages 199 & 200 and at Plat Slide 2012, Page 10. The Resolution stated that the recreation fees and the water availability fees previously paid by the developer would be retained by the county and credited toward any similar fees incurred by the developer in future submittals until December 31, 2015 or any later date required by an amendment to the Permit Extension Act. To date, 226 lots have been final platted with 156 occupied homes. The tennis courts and playground lot are completed and the clubhouse and pool are scheduled to be completed in Mid-August, 2017.

As part of a 2014 CUP revision, the final plat sunset date for all phases is December 31, 2020. The Phase 4A2 layout conforms to the revision to the CUP approved in 2014.

Ms. Richardson reported that the request before the Board is for preliminary plat approval of Phase 4A2, consisting of 43 lots on 8.56 acres. The following was also reviewed:

Roadways: Roadways within Phase 4A2 will be private, with a 50 foot wide right-of-way. The roadways will be paved to the NCDOT standards, but not reviewed and approved by NCDOT. The roads will be privately maintained by the developer and/or the homeowners association.

Permits: Other agency permits as required for preliminary plat submittal have been received as follows:

Chatham County Soil and Erosion and Sedimentation Control Plan: January 5, 2015

NCDENR Water Main Extension: June 22, 2017

NCDENR Authorization to Construct: June 22, 2017

NCDENR Wastewater Collection System Extension Permit: January 29, 2015

Copies of the permits can be viewed on the Planning Department webpage at www.chathamnc.org/planning Rezoning and Subdivision Cases, 2017. This project predates the Chatham County Stormwater Ordinance. Per Mark Ashness, P. E., the project does have wet or dry stormwater controls at all release points handling the first ½" of impervious (with a 2-5 day drawdown).

Historical / Archeological: Per the engineer, there are no cemeteries or historical structures, i.e. buildings, chimneys, fences, etc, 50 years or older located in Phase 4A2.

Road Names: The road name shown on the preliminary plat, Twin Creeks Loop, should be Two Creeks Loop and will be changed on the final plat. The Emergency Operations Office has approved the road names *Two Creeks Loop and Stone Bridge Crossings* for submittal to the Board of Commissioners for approval.

Conditional Use Permit Stipulations: See attachment # 2.

Water Features: There are no water features located in Phase 4A2 per the USGS maps or the NRCS maps.

Fire Marshal Review: The Fire Marshal has reviewed the plans for Phase 4A2 regarding access for emergency vehicles and found the plans acceptable based on road widths. The development is a gated community and the fire department has been provided access if the gate is locked.

Technical Review Committee: The TRC met on July 12, 2017 to review the plans for Phase 4A2. It was noted that the final plat information should include a note regarding repair of the public water line and a note regarding maintenance responsibility of the private roads. There were no other concerns from staff.

Staff Recommendations-Ms. Richardson stated that the plat meets the requirements of the Subdivision Regulations for preliminary plat review and that; the Planning Department recommends granting approval of the road names Two Creeks Loop and Stone Bridge Crossings and granting preliminary plat approval **The Legacy, Phase 4A2** with the following condition:

1. The road name 'Two Creeks Loop' be shown on the final plat.

Board Discussion- Some specifics noted were:

- o Storm water, predates 2008 storm water ordinance. Where is the storm water for this development going?
- o Need clarification on whether the 43 lots with that much density is only treated with a ½ inch instead of 1" of storm water.
- o Creeks on 2 sides, drain to Parker's Creek and Jordan Lake, concerns with the runoff going into Jordan Lake.
- o Water quality and storm water concerns.

Motion to approve- Mr. Galin made a motion; seconded by Mr. Arthur to grant preliminary plat approval of The Legacy, Phase 4A2 with condition 1 included and if determined the ½ "should be 1", that clarification will be addressed in the Board of Commissioner agenda notes. The motion passes; 6 in favor and 4 opposed, Emily Moose, Allison Weakley, Caroline Siverson and Jamie Hager

3. Request by Lee Bowman, Project Manager on behalf of NNP Briar Chapel, LLC for subdivision Preliminary Plat review and approval of **SD East**, consisting of 11 lots which includes 7 non-residential lots, 2 exempt lots, and 2 stormwater pond lots, located off US HWY 15-501, on 31.31 acres, Baldwin Township, parcel #18911

Ms. Richardson reviewed the agenda notes for the request as follows:

Introduction & Background:

Zoning: Conditional Use District / Compact Community

Water System: Public, Chatham County

Sewer System: Private wastewater treatment plant

Subject to 100 year flood: No floodable area in SD East

General Information: Compact Community approved in 2005 for 2,389 dwelling units and commercial uses on 1.589 acres, permit revised in 2012 and 2014 and dwelling units increased to 2,500.

Reviewed: Briar Chapel is reviewed under pre-2008 Subdivision Regulations.

The 2014 revisions to the Conditional Use Permit, Item #5, Commercial Uses states “The commercial component of the development shall be limited to 510,000 square feet in the locations shown on the Revised Master Plan, and the commercial uses allowed within the development shall be all those uses now allowed or later added as allowed in December, 2008 Zoning Ordinance under Section 10.13 Table 1: Zoning Table of Permitted Uses under the Zoning District denominated as “O/I”, “B-1”, “NB”, “CB”, and “RB”. Irrespective of whether such uses are shown as permitted or as requiring a conditional use permit, all such uses shall be deemed allowed as of right within the Briar Chapel development. Applicant has agreed to this specification of allowed uses in order to bring clarity to the scope of allowed commercial uses with the express agreement of the County that the district-specific restrictions regarding maximum size of buildings and setbacks shall not apply. Signage for the commercial uses shall comply with the Design Guidelines from the original 2005 approval and the signage provisions set forth in the Chatham County Zoning Ordinance in effect on February 15, 2005 (original approval date). Commercial components of the Briar Chapel Development shall be accessible via public sidewalks, greenways, paths or trails”.

Discussion & Analysis:

Ms. Richardson noted that the request before the Board is for preliminary plat approval of seven (7) non-residential lots (Parcels 2A, 2B, 4, 5, 7, 8, and 9); two exempt parcels (over 10 acres in size) (Parcels 3 and 10); and two (2) stormwater pond lots (Parcels 1 and 6) on 29.20 acres located off Taylor Road, S. R. 1529 and US 15-501, Baldwin Township, parcel #18911. The request is for approval of the lots/parcels only at this time. The uses proposed are not known at this time. Site plans for the specific uses will be presented to the Planning Department for review of the lighting plan and signage prior to obtaining a building permit. Permitted uses are uses listed in the 2008 Zoning Ordinance list of permitted uses in the O/I (Office and Institutional); B-1 (Business); NB (Neighborhood Business); CB (Community Business; and RD (Regional Business) districts.

Roadways: The SD East Commercial area will be accessed by two entrances off Hwy 15-501. Per the cover letter, attachment # 2, the turning movements at the two entrances were established by the NCDOT approved synchronized street package prepared by Kimley Horn. See attachment # 2 for a description of the turning movements. A map of the turning movements, prepared by Kimley-Horn is posted to the Planning Department webpage. An

Encroachment Agreement and Commercial Driveway Permit have been issued for each entrance as part of the superstreet widening project for Hwy 15-501. A copy of the Encroachment Agreement for Curb and Gutter, Pavement Widening and Storm Drainage is included with the preliminary plat submittal. The internal roadway serving the lots is proposed as a 54 foot wide private right-of-way. The private r/w will be a portion of the individual parcels. Maintenance of the private R/W will be the responsibility of the developer and/or a property owners association.

Road Names: The road names Market Chapel Road and Coharie Pines Drive have been approved by the Emergency Operations Office as suitable to submit to the Board of Commissioners for approval. The name Market Chapel Road will serve the two entrances off 15-501 and all other parcels except for Parcels 2A, 2B, and 3. The applicant has stated that Parcels 2A, 2B, & 3 may be recombined into one exempt, over 10 acre parcel in the future. Per EOC, if these lots/parcels are recombined, and the road name, Coharie Pines Drive, is not required to be used in SD East, the road name could be used elsewhere in the Briar Chapel Development in the future.

Site Plan: The pre-2008 Subdivision Regulations states in part in Section 6.4 C (3) "Properties reserved or platted for commercial, institutional or industrial purposes shall be adequate in size to provide for the type of use and development contemplated.....Land subdivided for commercial, institutional or industrial use shall follow the major subdivision procedure with preliminary plat review by the Board of County Commissioners. Land shall not be platted for commercial, institutional or industrial purposes unless the subdivider can demonstrate the following to the Board of County Commissioners:

- A. A site arrangement that prevents undue interference with through traffic.
- B. An integrated parking area.
- C. An insulation against any adverse effect on any present or future adjacent residences.
- D. A parcel size sufficient in area to allow future expansion.
- E. A plan that demonstrates that the first ½ inch of storm water runoff will be Managed on site, if more than six (6) percent of the lot area is covered with impervious surfaces such as buildings, parking, and drives."

Attachment # 3 is a general site plan prepared to demonstrate that the proposed lots will have adequate access; adequate internal traffic flow; that there is sufficient area for parking; that the 50' wide viewshed buffer along Hwy 15-501 and the 300' foot wide perimeter buffer adjacent to Ferrington Village and the Betty Stallings properties will insulate against any adverse effect on present or future owners; and that the parcel size will allow for future expansion. Parcel # 10 of 12.78 acres has a limited area for development due to the required buffers and shape of the property. A storm water management plan for SD East was approved by NCDWR on July 5, 2017. The Briar Chapel development, including all residential and non-residential lots, is limited to 24% impervious surface coverage. Per the Impervious Surface Summary submitted with the preliminary plat application, SD East is proposed to have a maximum of 869,458 square feet / 19.96 acres of impervious surface coverage. The updated summary states that the project is proposed to have 23.01% overall coverage at build-out. Prior to obtaining building permits on any of the lots, the owner/developer will present a specific site plan for review by the Zoning Administrator for review of the lighting plan, signage, and adequate parking for the proposed use(s).

Staff recommends the final plat(s) include a note regarding cross access easements for all parcels. Per the cover letter, dated July 19, 2017, there will be no pedestrian access to SD East from Briar Chapel by way of 'sidewalks, greenways, paths or trails' due to development of the Super Street plan for 15-501 in order to keep traffic moving; however, all commercial components will have sidewalk accessibility between and among the commercial elements of SD East.

Permits: Other agency permits required for preliminary plat approval have been received which include Chatham County Erosion Control, USACOE 404 Permit, NCDEQ Water Quality 401 Permit, NCDEQ DWQ Wastewater Collection System Extension Permit, NCDEQ DWQ Wastewater Treatment/Reclaimed Water/Spray Irrigation System, Chatham County Public Works Water Plan, NCDEQ Water Main Extension Permit, NCDEQ Authorization to Construct/Water System, and Stormwater Management Plan. The permits can be viewed on the Planning Department webpage at www.chathamnc.org/planning , Rezoning and Subdivision Cases, 2017.

Water/Sewer: County water is available and will be utilized. Sewer service will be provided by the Briar Chapel WWTP.

Historical / Archaeological: Per the application, there are no cemeteries or structures eligible for the National Register within the project area of SD East nor any structures or cemeteries 50 years old or older.

Conditional Use Permit Stipulations: The applicant has provided an update on the 2014 Conditional Use Permit stipulations. See attachment # 4. As stated in the cover letter dated July 19, 2017, Conditions #11 and #14 G of the 2014 CUP Revision have been addressed in the final review of SD West, Lots A & D.

Water Features: The preliminary plat Overall Site Plan shows several water features. A portion of these features will be located within the individual parcels/lots. Staff recommends that the final plat(s) label the width of the riparian buffers and show the 10 foot no build area as required. There are two retaining walls shown on the preliminary plan. Both are shown located outside the 10 foot no build area along the streams as required.

Stormwater: There are two stormwater ponds shown on the preliminary plat, Parcel 1 and Parcel 6. Per Rachael Thorn, Water Quality Supervisor, the final plat needs to include the required stormwater note, approximate location of the stormwater BMP (using existing top of bank), label the stormwater easement 'Private'; and specify the entity responsible for maintenance. During discussion of the request at the July 12, 2017 Technical Review Committee meeting, Ms. Thorn emphasized that the Compact Community Ordinance, the Chatham County Stormwater Ordinance, and the 2014 CUP Revision all require a stormwater management plan to be reviewed and approved by the County Stormwater Administrator prior to approval of a preliminary plat for each phase of the project. As stated above, the applicant has received a stormwater permit from NCDWR for SD East; however, the plan has not yet been review and approved by the County Stormwater Administrator.

Fire Department Review: Prior to a building permit being issued for a structure, the Fire Marshal will review and approve the plan which will include fire hydrant placement and emergency vehicle access to the structure.

Technical Review Committee: The TRC met on July 12, 2017 to review the request. The discussion included emergency vehicle access to structures, access off Hwy 15-501 and turning movements, submittal of stormwater plans to Chatham County for review and approval, possible future recombination of lots to accommodate end users, and cross access easements for all parcels.

Staff Recommendation- Ms. Richardson reported that the Planning Department recommends granting approval of the road names *Market Chapel Road and Coharie Pines Drive* and recommends granting preliminary plat approval of **SD East** with the following conditions:

1. The final plat(s) shall include a note regarding cross parking easement for all parcels.
2. The final plat(s) shall include the width of the riparian buffers and label the 10 foot no build area.
3. The final plat shall include the required stormwater note, approximate location of the stormwater BMP (using existing top of bank), label the stormwater easement 'Private'; and specify the entity responsible for maintenance.
4. The County Stormwater Administrator shall review and approve the stormwater management plan prior to construction or installation of infrastructure pursuant to condition #4 of the conditional use permit.

Board Discussion followed- Some specifics noted were:

- Does the SD East impervious count towards the 24% Briar Chapel maximum,
- Plat should state widths of riparian stream buffers,
- Is the first ½" or the first 1" of stormwater being treated on site? Concern that treating the first 1" is not sufficient,
- Is there a height limitation on structures,
- What does it mean by future expansion allowed,
- Will there be any single family residential,
- How is waste water treated,
- Are there any spray fields in SD East,
- Walkability and pedestrian access from Briar Chapel,
- Possibility of providing pedestrian access by way of a pedestrian bridge or tunnel to access the transit and walkability concerns,
- Walkability issues are very important especially with the possibility of apartments being located in SD East,
- Conditional Use Permit requires pedestrian access,
- Additional traffic potentially generated if dwelling unit cap is raised,
- Concerns with water quality and velocity coming off impervious surfaces and downstream neighbors will suffer,
- Level of service on the turning movements,

- Has Chatham County Transit reviewed this plan regarding transit stops?

Staff addressed the following: impervious surface coverage in SD East is counted towards the overall 24% maximum for the Briar Chapel project; structures are limited to a height of 60' per the Zoning Ordinance although lot size and setbacks are flexible and are determined by the developer; future expansion refers to meeting the allowed impervious surface amounts for SD East; waste water will be pumped from SD East under 15-501 to the wastewater treatment plant; there are no spray fields in SD East; and that Chatham Transit will be provided 18 parking spaces and a bus shelter on Lot D in SD West and has been previously reviewed and approved with those plans.

Mr. Robinson, attorney for the applicant, addressed the Board and stated that there will not be any single home units, that there may be apartments in SD East but they are considered commercial, not single family residential; and that the planning staff has already stated this plat is 100% in compliance and meets all requirements and he request the Board recommend approval.

Mr. Bowman stated that the stormwater ponds as designed have a square footage limitation for impervious surfaces, they already calculated the impervious surfaces and they would not exceed that amount.

Richard Adams, P.E. with Kimley-Horn, stated he thinks the level of service is a C, he can check on that and let us know for certain; they have met with the NCDOT and Planning staff and submitted a turning movement analysis that was provided to the county and NCDOT. He reviewed a map of the intersections and he explained the restricted turning movements and how they work in the areas of SD East, Taylor Road and Andrews Store Rd. The existing traffic analysis included all the homes currently proposed by the 2014 CUP revision, and any development beyond that would require another traffic study; that there is not a good way to access SD East from Briar Chapel; that it would be a tremendous cost to build a bridge or tunnel to provide access; that there is not a feasible way to get people across safely, the roads are much lower and he does not believe the development will bring high pedestrian traffic.

Mr. Robinson discussed that there is a long history with the projects development and it is specifically addressed in the CCO; that the CUP states that there be trails, greenways and paths; and in 2012 the CUP was revised and it did not include language stating pedestrian access had to be provided to SD East only SD West. The super street construction has already occurred, any pedestrian solution that you could come up with would require all of that work be revisited.

The design and location for transit has already been worked out with Chatham Transit Network on Lot D in SD West is where the number of spaces are located and they have already been worked out as part of the development.

Motion to approve- Mr. Gaeta made a motion to approve the request for preliminary plat approval of SD East with conditions specified below; seconded by Mr. Galin. Motion passed 8 in favor and 2 opposed, Jim Elza and Allison Weakley.

1. The final plat(s) shall include a note regarding cross parking easement for all parcels.
2. The final plat(s) shall include the width of the riparian buffers and label the 10 foot no build area.
3. The final plat shall include the required stormwater note, approximate location of the stormwater BMP (using existing top of bank), label the stormwater easement 'Private'; and specify the entity responsible for maintenance.
4. The County Stormwater Administrator shall review and approve the stormwater management plan prior to construction or installation of infrastructure pursuant to condition #4 of the conditional use permit.

VIII. **ZONING:**

Chair Lucier stated that there are 7-8 items in the next request, they will be reviewed and voted on one by one as we go for each item. We will skip over the 2650 request, when we are finished with the other Quasi-Judicial parts, we will then move to the legislative section with the amendment of the CCO and then go back to the Quasi-Judicial request for the 2650.

Quasi-Judicial Request- Ms. Birchett stated that a request by NNP Briar Chapel for a revision to the Conditional Use Permit to (1) revise the civic site at the intersection of Andrews Store Rd and Parker Herndon Rd (possible Chatham County elementary school site) on master plan to allow for full development of the site (rather than just 2 acres as shown), (2) create the possibility of having up to 2,650 residential units (currently approved for 2,500), (3) revise the master plan map to reduce the perimeter buffer (a) from 100' to 50' along the frontage with Chapel in the Pines church (at the church's request); (b) from 100' to 50' along the short boundary with Duke Energy ROW at SD-N; and (c) from 100' to 75' along Phase 15-S boundary to eliminate the need to build a retaining wall within the perimeter buffer, and (4) revise the color key table on the master plan map to reflect adjustments to residential densities in particular locations.

Ms. Birchett reminded everyone that this is a CUP revision request and is Quasi-Judicial. That evidence was already presented at the Public Hearing under oath and that no other evidence can be presented at this meeting. She did indicate that you can address concerns and present clarifying questions with the applicant. There are no proposed changes just clarifications.

Ms. Birchett proceeded to review the agenda notes for this request as follows:

Introduction & Background- A quasi-judicial public hearing was held on the request on May 15, 2017. Planning staff presented the request, Attorney Nick Robinson presented on behalf of the applicant, expert testimony, as well as comments from residents of Briar

were given. A presentation by the Chatham County Fire Marshal, Tom Bender, was also provided. Due to extensive evidence presented by the applicant and citizens, the Planning Department postponed forwarding the request to the Planning Board by one month as allowed in the zoning ordinance.

The notes are a summary of the changes requested by the applicant and the supporting information provided for each item. It will also outline any remaining concerns planning staff have that continue to be unresolved and/or need further discussion. The draft minutes from the four hours of testimony at the public hearing have been attached. Also attached is the revised Master Plan submitted during the hearing and several professional reports related to traffic, market study, housing, etc. Written comments provided during the hearing are also provided online.

The Planning Board discussed this item during their July 11, 2017 meeting. Planning staff reviewed the notes and highlighted the items requiring further review. There were no proposed changes to what was outlined in the notes. The following are the items requiring further discussion by the Planning Board:

- Concerns remain over the enforcement of the parking restrictions that are currently in effect and those that will be forthcoming. The developer is still evaluating options and discussing them with North Chatham Fire Department staff and Briar Chapel residents. A homeowner's association meeting was scheduled during the time between the July and August Planning Board meetings.
- Concerns about increasing the number of residential units in a development that is at half build out by raising the permitted cap that is currently in place as part of the original approval of the Compact Community Ordinance. There were issues raised about traffic, lack of amenities to serve all residents, etc.
- Concerns remain over the increase in traffic on Andrews Store Road with respect to the existing amount of traffic with two schools and the possibility of two new schools being proposed. Mr. Adams with Kimley-Horn stated that roundabouts may be helpful in these areas but an official assessment needs to be done when appropriate and would be under the direction of NCDOT. He also explained that NCDOT has an internal group designated to evaluate school sites.
- The applicant's attorney, Nick Robinson, suggested some changes to the wording of the Site Specific Conditions No. 1 and 5. The applicants agree to all other conditions as written. The proposed word changes are:

Condition No. 1 – The Master Plan and supporting documentation submitted with this amendment shall be the guide for development of remaining phases of the project. The road system, buffers, water features, and open spaces shall remain as shown on this master plan unless subsequently modified pursuant to an order entered or a resolution adopted by the Board of Commissioners; .and **Condition No. 5** - An updated impervious surface calculation must be

provided within six months from the date of the adopted approval and an engineer assessment of the overall impervious surface calculation will be required at the completion of the project. If county staff requests an updated impervious surface calculation during the development of the project the developer shall provide one within 60 days of such request.

Discussion & Analysis:

In reviewing and considering approval of an amendment to a Conditional Use Permit, the Board shall find that all of the following Findings of Facts shall be supported. Per the Zoning Ordinance “In considering an application for a conditional use permit the Board of Commissioners shall give due regard that the purpose and intent of this Ordinance shall be served, public safety and welfare secured and substantial justice done. If the Board should find, after public hearing, the proposed conditional use permit should not be granted, such proposed permit shall be denied.” The findings are as follows: **It is recommended that the Planning Board discuss and vote on each modification separately since some of them have not been recommended for approval by staff.**

Finding 1 – The use requested is among those listed as an eligible conditional use in the district in which the subject property is located or is to be located. A compact community continues to be a permitted use within the CCO district it is located.

Motion to approve Finding 1-Mr. Gaeta made a motion; seconded by Mr. Elza

The motion passed unanimously 10-0

Finding 2 – The requested conditional use permit or revision to the existing permit is either essential or desirable for the public convenience or welfare; and

Finding 3 – The requested permit or revision to the existing permit will not impair the integrity or character of the surrounding or adjoining districts, and will not be detrimental to the health, safety or welfare of the community.

Ms. Birchett read Finding 2 and 3 and a vote followed.

Motion to approve Finding 2- Mr. Gaeta made a motion; seconded by Mr. Elza

Motion passes-7 in favor and 3 opposed, Allison Weakley, Caroline Siverson and Emily Moose

Motion to approve Finding 3- Mr. Gaeta made a motion; seconded by Mr. Elza

Motion passes-7 in favor and 3 opposed, Allison Weakley, Caroline Siverson and Emily Moose

Item 1 – The application includes a revision to the civic site located at the intersection of Andrews Store and Parker Herndon Roads to provide more flexibility for a Chatham County Elementary School in order for the school system to begin preparations for

engineering and site planning. The school administration has confirmed the need for an additional elementary school site in this area of the county. County water and the Briar Chapel wastewater treatment plant (WWTP) will serve the location. The revised master plan details the site as the entire tract being Parcel No. 79946, 26.627 acres per the Chatham County Tax registry located at the corner of Andrews Store Road and Parker Herndon Road.

There were concerns expressed about increased traffic on an already busy three mile roadway with two existing schools and one more under consideration, in addition to the elementary school. A publication on roundabouts was provided by a resident and is attached for consideration. If an elementary school locates on the property, NCDOT will review the traffic impacts and determine the improvements that will be needed. A report from NCDOT or the traffic consultant will also be required to show new traffic count information if warranted.

Since there isn't a site plan to review at this time, a review of the landscaping, parking, lighting, signage and building locations cannot be reviewed by the Chatham County Appearance Commission (CCAC). A condition is noted below if approved.

Board Discussion followed- Some specifics noted were:

- Concerns still with the increased traffic in the school areas and safety
- What is the total acreage, any streams? Streams have been buffered
- What is the total acreage minus the buffers? 17 to 18 acres

Mr. Sullivan shared with board members that Planning Board staff, Ms. Cara Coppola coordinated a mini work session with NCDOT representatives and some residents from the Andrews Store area. The overall discussion was about roundabouts and Andrews Store Road. The timing of the project and local area they did not know in advance what improvements need to be made. They have to look at impacts such as stream buffers, some will work and some will not. They are concerned about safety and know the issues that we will be dealing with regarding the traffic. Schools are being driven by the population and somethings cannot be predicted in advance.

Mr. Robinson said these are all serious concerns and that this plan for the school is being sent to a special division with the NCDOT that does nothing but work on safety with traffic in school areas all over North Carolina. They will review every intersection that is impacted by the placement of the school. They will require a plan that will be required if the school is developed.

Motion to approve item one with the condition; Mr. Elza made a motion; seconded by Mr. Gaeta. Motion passes-9 in favor and 1 opposed, Allison Weakley

Chair Lucier reported that as we move forward with the remaining items that conditions will automatically be included with votes unless it is determined that it needs to be changed and those will be included.

This is recommended for approval by planning staff.

Ms. Birchett stated that we would skip over item 2 at this time as part of the Legislative Hearing and we would move to item 3a now.

When we came back to this item Ms. Birchett reported that the following based on the motion and recommendation; it appears the 2650 has been approved.

Item 2 – Increase the dwelling unit cap to 2,650 residential units (currently approved for 2,500). The applicant also filed an amendment to the Company Community Ordinance (CCO) to increase the current cap 2,500 unit total. The entire compact community area map extends beyond the confines of Briar Chapel. At present, Briar Chapel is approved for the maximum number of dwelling units currently allowed by the CCO and other compact communities could be approved within the compact community area outlined in the ordinance. In a 2014 CUP revision request by the applicant, they requested an increase from 2,389 units to the maximum allowed by the ordinance in order to construct approximately 200 multi-family dwelling units. In the previous submittal, the applicant stated “The CUP has always provided for this mix as it currently allows for 80 multi-family/townhouse units within SD-N and SD-W. Developers have made it clear that, in order to be financially viable, the number of multi-family/townhouse units within the Special Districts needs to be approximately 200. Adding 120 residential units to the project, however, would put the project over the 2,500 unit maximum imposed by the CCO. Rather than seek a change to that number, Applicant has resolved to “borrow” from the previously approved 2,389 residential units in order to make a multi-family/townhouse project viable when or if such a 200 unit multi-family/townhouse proposal comes to fruition.” This implied that there wouldn’t be a need for an increase in the overall dwelling unit cap for the project.

There were concerns raised about increased traffic with the additional units. The application included a letter from Richard Adams with Kimley-Horn and Associates that included “Our understanding is that the developer views it as unlikely to develop 2,650 residential units and more than 301,500 s.f. of commercial development (but no more than the approved 510,000 s.f.). However, if such a scenario should arise, we expect that the developer would be required to seek approval of a revised TIA from the North Carolina Department of Transportation.” A new TIA was not performed but a condition has been applied as noted below, if approved.

The developer also stated residents of the multi-family dwelling units would not be permitted to utilize the Briar Chapel amenities, which they believe would help with internal traffic concerns and overcrowding of the amenities themselves. This is not enforceable by the county and is considered a private covenant agreement with the tenants and the HOA.

This request is contingent on the outcome of the Compact Communities Ordinance revision request.

Board Discussion:

- What control do we have as to where the units will be placed?

Motion to approve Item 2: Mr. Elza made a motion; seconded by Mr. Gaeta

Motion passes-7 in favor and 3 opposed, Allison Weakley, Caroline Siverson and Emily Moose

Motion to approve Item 4 with the asterisk (on page 6)- Mr. Elza made a motion; seconded by Mr. Gaeta.

Motion Passes- 9 in favor and 1 opposed, Allison Weakley

Mr. Sullivan addressed the question above saying that the table provided by the developer show how the units will be mapped out. The maximum number of units is 350 in the special district of Briar Chapel.

Item 3a – A reduction in the perimeter buffer of 50 feet along the boundary with Chapel in the Pines church to allow for additional parking. This property is landlocked between Mann’s Chapel Road and Great Ridge Parkway with an easement given to them by the developer. The increase in Impervious Surface must be taken into account for the entire Briar Chapel community. This information has not been provided to date but is being prepared by the applicant.

This is recommended for approval by planning staff contingent on receipt of the revised impervious surface document and compliance with the 24% cap.

- There was no Board Discussion for this item

Motion to approve Item 3a-Mr. Elza made a motion; seconded by Mr. Gaeta

Motion Passes unanimously 10-0

Item 3b – A reduction from 100’ to 50’ along the boundary with Duke Energy ROW at SD-North. At the request of staff, the applicant has provided a site map of this area showing what is to be disturbed/removed in order to accommodate parking (the exhibit has been posted on the planning website as SD-North Buffer Exhibit and is attached). The property adjoins the Duke Energy power transmission line easement. The county has not received an approval letter from Duke Energy on this issue and whether or not they will permit it and what landscaping, if any, they will permit to be planted on the edge of the parking area that is at a perimeter boundary. A condition has been noted below if approved.

- There was no Board Discussion for this item

Motion to approve Item 3b- Mr. Elza made a motion, seconded by Mr. Gaeta; no further discussion.

Motion Passes-9 in favor and 1 opposed, Carolina Siverson

Item 3c – A reduction from 100' to 75' along Phase 15-S boundary to eliminate the need to construct a retaining wall at edge of the perimeter buffer. This boundary adjoins property that is not owned by Newland Communities. The developer stated if the reduction couldn't be approved, they would need to build a retaining wall to further support that section of that phase of residential development. However, a subdivision preliminary plat has been submitted for approval by the Board of Commissioners and is scheduled for action on July 17. The preliminary plat included all regulatory permits needed to construct this phase, and the erosion control plan has been approved which doesn't include a reduction into the buffer, and the retaining wall location was shown on the plan.

This is recommended for denial by Planning staff.

- There was no Board discussion for this item

Motion to approve Item 3c- Ms. Weakley made a motion; seconded by Mr. Gaeta as recommended for denial by planning staff

Motion Passes unanimously 10-0

Item 4 – Propose a revision the color key table on the master plan map to reflect adjustments to residential densities in particular locations. When the application was originally submitted, there was a phase noted at the northern area of the development that was to be proposed for multi-family dwellings. During discussion with residents on Briar Chapel and county staff, it was later decided to remove the request for multi-family in that area. Single family dwelling units and townhomes may be constructed per the revised master plan that was provided during the public hearing.

During the public hearing staff questioned the applicant about the area adjoining the Dollar property, which is shown as the white rectangle in the middle of north of the project that accesses Mann's Chapel Road. There is no buffer shown around these properties on the master plan; however, the developer has provided an exhibit with a 50' buffer for these properties that will allow for grading and revegetation (the exhibit has been posted on the planning department website and is attached). The Dollar property was included as part of the original approval of Briar Chapel in 2005. In 2013, the owners submitted applications to rezone the properties from the compact community designation to R-1, Residential, which was subsequently approved by the Board of Commissioners.

- Chair Lucier stated to wait on this vote since it effects the 2650 request.

When Ms. Birchett returned to Item 4, there was no Board discussion.

Motion to approve Item 4- Mr. Galin made a motion to approve; seconded by Mr. Bock.

Motion Passes-9 in favor, 1 opposed, Allison Weakley

Ms. Birchett said that Item 5 does not require a motion or vote since this is a matter being handled with the county manager, county attorney, and finance regarding the Lieu in Payment. Mr. Sullivan did meet with the County Manager and they will follow up with the developer regarding follow-up questions.

Chair Lucier then reported that we would now move back to the Legislative request items.

Item 5 – Provide a proposed payment-in-lieu option for the provision of affordable housing units for the additional dwelling units. First, the applicant has proposed to continue providing a payment of \$460.44 per unit above the 2,389 dwelling units following the current process, which is payment at the time of final plat submittal. Second, the applicant has proposed a lump sum payment of \$33,346.19 for the balance of the dwelling units using a methodology similar to what was applied in 2012. At that time a \$900,000 payment was provided to the county for the balance of the affordable housing lots under the original conditional use permit. Staff has requested additional information from the applicant regarding the 2012 lump sum payment to use for comparison.

Finding 4 – The requested permit will be or remain consistent with the objectives of the Land conservation and Development Plan. The development was approved in 2005 and the conditional use permit was amended in 2012 and 2014. The development is on-going and continues to comply with the current Land Conservation and Development Plan. The development includes a mix of residential units, as well as complementary non-residential uses. The northeastern portion of the county has continued to experience rapid development in part due to its proximity to RTP, Wake, Orange, and Durham Counties. The developer continues to work with the county Land and Water Resources department to take measures to protect ground and surface waters.

Chair Lucier, we will come back to this request for a vote. Hold on Quasi-Judicial and now moving to the Legislative Request for the increase the allowable units from 2500 to 2650.

When the board returned to Finding 4, Ms. Birchett read the finding.

Board Discussion-

- None

Mr. Robinson presented a handout that pertains to Finding 5, there will be no more than 350 multi-family units and the chart was revised to reflect that and it will be on the map.

Motion to approve Finding 4- Mr. Galin made a motion; seconded by Mr. Bock.

Motion Passes-7 in favor and 3 opposed, Allison Weakley, Caroline Siverson and Emily Moose

Ms. Birchett reviewed the following notes for Finding 5 and noted that the planning staff is pleased with their progress.

Finding 5 – Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary facilities have been or are being provided consistent with the County’s plans, policies, and regulations. The development will continue to utilize the county water system and the applicant indicated that wastewater treatment plant has been permitted with adequate capacity to support the approved development, as well as the requested increase. Recreation and open space will continue to be protected and provided through site design and compliance with ordinances and regulations.

Ms. Birchett stated that there has been an on-going concern over the road network within the development and proper access for emergency vehicles, as well as ease of general traffic of the residents. Planning staff participated in two separate ride-alongs with the North Chatham Fire Department to gain first-hand knowledge of the obstacles and issues that the fire department has noted on several occasions. Photos and videos were taken by staff and shown at the public hearing. The footage indicated that there are issues for emergency vehicle access due to informal on-street parking. There have been discussions between the developer, staff, and the fire department and remedies are being discussed to address some concerns. They are:

- Intersection markings to restrict parking within a certain distance to allow for proper emergency vehicle turning movements.
- Restrictions to one side only parking on roads with higher density residential lots.
- Maintaining a minimum clearance width, etc.

Discussions between the developer, staff, and fire department are on-going and **a recommendation cannot be provided at this time.**

An updated impervious surface calculation is required due to the expansion of the parking area for Chapel in the Pines Church and SD North, addition of rock/stones that have been placed along some of the roads to address rutting that has occurred at the edge of pavement, and the removal of the Dollar property from the compact community land calculation. This is conditioned below.

Recommendation:

The Planning Board has up to three meetings in which to make a recommendation to the Board of Commissioners. The following conditions are recommended by staff; however, additional conditions may be provided based on the outcome of on-going discussions with the developer.

Motion to approve Finding 5- Mr. Galin made a motion to approve with ongoing phasing, discussions and conditions; seconded by Ms. Hager.

Motion Passes- 9 in favor and 1 opposed, Allison Weakley

Ms. Birchett read the modified Site Specific Conditions 1 and 5, stating that 2, 3, and 4 will stay the same.

Motion to approve-Mr. Elza made a motion to approve all conditions with conditions, 1 and 5 being modified as noted; seconded by Mr. Gaeta.

Motion Passes- 8 in favor and 2 opposed, Allison Weakley and Emily Moose

Site Specific Conditions

1. The Master Plan and supporting documentation submitted with this amendment shall be the guide for development of remaining phases of the project. The road system, buffers, water features, and open spaces shall remain as shown on this master plan.
2. The site plan for the proposed school to be located on the civic site of Briar Chapel must be reviewed by the Chatham County Appearance Commission before any land disturbing activities commence.
3. A Traffic Impact Analysis shall be required if the developer intends to construct 2,650 dwelling units and exceed 301,500 square feet of non-residential development.
4. An approval letter from Duke Energy must be provided before land disturbing activity can begin on the northern portion of SD North as shown on the supplementary exhibit. This letter should detail what is permitted within the Duke Power easement and any landscaping that may be provided to shield the view from US 15-501.
5. An updated impervious surface calculation must be provided within six months from the date of the adopted approval and a final as built will be required at the completion of the project. If county staff request an updated impervious surface calculation during the development of the project the developer shall provide one within 60 days of such request.

Standard Site Conditions

1. The application, standards and adopted regulations of the applicable ordinances and policies, and the approved recommendations as provided for and/or conditioned, are considered to be the standards as set forth and shall comply as stated. Changes or variations must be approved through the Planning Department or other approving board before any such changes can take place. These include but are not limited to landscaping, lighting, signage, parking, building construction, etc.
2. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Land and Water Resources, Environmental

Health Division, Building Inspections, Fire Marshal, etc.) shall be obtained, if required, and copies submitted to the Planning Department to the initiation of the operation/business.

Standard Administrative Conditions:

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

VIII-1 LEGISILATIVE REQUEST:

Chair Lucier indicated that we would now review the Legislative request below.

Mr. Sullivan reviewed Item 2 and covered the additional **Comments Specific to Briar Chapel and the Ordinance** as it relates to the July 11, 2017 Planning Board meeting.

Ms. Birchett also mentioned that she had received 2 emails today not included in the packet from two Briar Chapel residents who request that the board deny the CCO amendment.

1. A request by NNP Briar Chapel for a revision to the Chatham County Compact Community Ordinance, Section 6.2 Maximum Size, to increase the dwelling unit cap from 2, 500 to 2,650

Mr. Sullivan reviewed the agenda notes for this request as follows:

Introduction & Background:

The Compact Communities Ordinance (CCO) was adopted by the Board of Commissioners in April 2004 after several years of work by the Land Use Plan Implementation Committee (LUPIC). Section 6.2, Maximum Size, states “No compact community shall include more than two thousand five hundred (2,500) dwelling units.”

Laurie Ford, representing NNP-Briar Chapel, LLC, submitted an application to amend Section 6.2 to increase the dwelling unit cap to 2,650 dwelling units. Section 6.1 of the CCO includes a map outlining the boundaries within which a compact community can be located as follows –

Discussion & Analysis:

A public hearing was held on May 15, 2017 and Nick Robinson, attorney representing Newland Communities, provided a presentation outlining the request. His comments included that the CCO includes a maximum density threshold of 2 dwelling units per acre; maximum impervious surface limit of 24%; a 30% open space requirement; a conditional use permit is required for compact community; and that no amendments were requested of these standards. His comments also included that density should be concentrated where “water, sewer, public parks, education centers, and roadway infrastructure is already available”; would allow a mixed use environment with a concentration of multi-family housing located within commercial areas; and would avoid sprawling development (a copy of the presentation is available on the planning website).

Questions from Commissioners and Planning Board members included whether the multi-family housing could accommodate students from the community college, would the units be rental or owner occupied, and if the wastewater treatment plant capacity was sufficient for the increase in units. Mr. Robinson responded that the multi-family could be available to students, would likely be rentals, and that the wastewater plant did have sufficient capacity for the increased number of dwelling units.

Mr. Sullivan said that several people spoke on this item and comments of those opposed to the request included that the increase in units will generate more students and impact the school system; there will be increased traffic on existing two lane roads; there’s no guarantee that the additional units will be affordable; the dwelling unit count for Briar Chapel has already been increased from the original 2,389 approval to the current 2,500 maximum; there’s been no evaluation of the facilities to support the increasing number of dwelling units and is being done incrementally; there are currently parking issues within the development and additional evaluation is needed; the master plan was worked out in 2004 and the developer keeps requesting changes to permit; and the development is half built out and parking and traffic issues are already a concern. Comments in favor of the amendment were that the developer has been supportive of local non-profit organizations and been a good corporate steward (draft minutes from the Commissioners May 15, 2017 meeting are provided online).

During the drafting of the CCO from 2002 through 2004 there were several discussions by the LUPIC, Planning Board, and Commissioners regarding the density cap for a compact community and how it would apply to the designated area in the ordinance. The following information is a brief review of minutes and documents produced during that time period (digital copies of the documents are provided on the planning website).

- February 25, 2003 Minutes of a joint meeting of LUPIC and Board of Commissioners: The minutes included a Memo from LUPIC Chair to the Chair of the Board of Commissioners dated February 23, 2003 and discussions by the committee to limit a

compact community to 1,100 acres and a density of 1,400 to 1,500 dwelling units. Discussion also included the possibility of a two mile separation requirement between compact communities. (the minutes, memo, and supplementary attachments are available online)

- March 29, 2004 Letter from the Board of Commissioners Chair Thomas Emerson, Commissioner Bunkey Morgan, and Planning Board Chair George Lucier to the County Manager and County Attorney: The letter outlines that they “have agreed, in principle, that 2,500 houses is a reasonable maximum limit of controls that can be implemented provided that no other compact community is built in the designated area.” (a copy of the letter is provided online)
- April 6, 2004 Planning Board notes and meeting minutes: The Planning Board discussed the CCO and voted 6-4 to forward the public hearing draft of the ordinance with removal of the waiver provision. The public hearing draft reflects the currently adopted wording for section 6.2 with a dwelling unit cap of 2,500 units. The recommendation did not include a restriction on the number of compact communities within the designated area.
- April 19, 2004 Board of Commissioners notes and meeting minutes: The Board of Commissioners discussed the proposed ordinance and voted 3-2 to adopt it as presented at the public hearing.

Mr. Sullivan recommended to the Planning Board that there are several points they may want to discuss including; whether there have been sufficient changes in the designated area for a compact community that warrant an increase in the number of dwelling units (i.e. utilities, schools, parks, road infrastructure, etc.), whether sprawling development will result from a denial of the request, and whether an increase in dwelling units will negatively impact areas outside of the designated compact community boundary.

Mr. Sullivan reviewed the following that was discussed with The Planning Board during the July 11 meeting and comments included:

Comments specific to the ordinance

- **The 2,500 dwelling unit cap was a compromise when the ordinance was drafted between what would be considered an appropriate cap, whether there should only be one compact community in the designated area, and if a separation requirement should be included in the ordinance.**
- **From a green building perspective a developer would need more density to have a meaningful compact development.**

- If the building footprint is not increasing then this would allow multi-family mixed with commercial development under a master plan.
- When the ordinance was adopted the 2,500 unit cap was deemed to be adequate and if this amendment is approved there could be additional requests to increase the cap in the future.
- If approved the increased dwelling unit cap would also be available to another compact community.

Comments specific to Briar Chapel

- If the request is approved then Briar Chapel could increase the multi-family allocation from 200 to 350 without reducing the units allocated to single family dwellings.
- Briar Chapel will still be grandfathered under the pre-2008 Subdivision Regulations even if the increase is approved. But they are subject to the CCO regulations which have larger stream buffers and protections for ephemeral streams.
- Are 350 multi-family units needed when there are other mixed use developments with fewer multi-family units that are still successful?
- A significant amount of open space is set aside for Briar Chapel and that will continue. There were also comments about the allowed uses within the open space ranging from spray irrigation for treated wastewater to trails.

Mr. Sullivan also reported that a plan consistency statement will also need to be recommended to the Board of Commissioners if the Planning Board finds that the proposal should be approved. A copy of the Compact Community section of the Land Conservation and Development Plan has been attached as a reference. The Land Conservation and Development Plan includes the following:

- **Encourage Compact Communities With A Mix Of Activities As Development Occurs (p. 11)**
- **Encourage development that incorporates a mix of uses rather than a separation of uses; encourage new development to incorporate other new urbanism features such as pedestrian connections. (p. 11)**

Recommendation: Discuss the request and provide a recommendation to the Board of Commissioners. The Planning Board will also need to make a recommendation on a consistency statement to provide the Commissioners for consideration.

Board Discussion followed- Some specifics noted were:

- Can you live with a number in between the 2500 and 2650?
- Why can't units be shifted/transferred?
- Doesn't the increase in the cap take away from the HOA of Briar Chapel?

- Is there anything in the covenants about the size of the dues
- Great idea to develop a senior care center
- What are the impact fees?
- Still some concerns with the impact to traffic

Mr. Robinson explained that the original approval was for 2389 units and there was never a guarantee that it would be that exact number of units built. None of the residents has an expectation of that exact number. There is nothing in the covenants about the size of the dues. The multifamily units out by the highway will have their own separate association. He shared some of the recent history and that Newland applied for modification to remove the gap all together. In order to negotiate and figure out what the market would bear with potential developers of multifamily units, they wanted to try and do that without a cap on it. The Commissioners wanted them to do a study and come back with an actual number. After about a year and a half the decision came back with an effective number to have by the highway and that was 350 units. This number will provide an element there to allow good and excellent commercial property to surround the multifamily development with.

Ms. Ford said that there are two impact fees, one is the county impact amount of \$3,500 and the voluntary fee for all residential units is \$2,000. Multifamily rates would be the \$2,000 voluntary fee and the \$1,100 per unit. The nursing home would not count against the residential units. She feels that only being 150 units off from the 2500 is pretty remarkable. Ms. Ford also reviewed again as at the last planning board meeting, the marketing study results as part of this development from a business perspective.

Motion to approve: Mr. Gaeta made a motion to approve cap to 2650; seconded by Mr. Bock.

Motion Passes-7 in favor and 3 opposed, Allison Weakley, Caroline Siverson and Emily Moose

Mr. Sullivan said that we also need to vote on a plan consistency statement, with the following Land Conservation and Development Plan that will include the following statements:

- **Encourage Compact Communities With A Mix Of Activities As Development Occurs (p. 11)**
- **Encourage development that incorporates a mix of uses rather than a separation of uses; encourage new development to incorporate other new urbanism features such as pedestrian connections. (p. 11)**

Chair Lucier said that we could use this language as evidence by the statements. Mr. Sullivan read from the comments specific to Briar Chapel.

Motion to approve: Mr. Gaeta made a motion; seconded by Mr. Elza

Motion Passes-7 in favor and 3 opposed, Allison Weakley, Caroline Siverson and Emily Moose

Chair Lucier said the policy states that a Minority Report may be submitted and will become part of the record. The deadline preferred to submit that report would be by end of next week.

Ms. Birchett then reported we would now move back to item #2 in the Quasi-Judicial request.

IX **ZONING:**

1. A rezoning request by Morgan Property Group for Parcels 2719, 2720, 2721, 69884, 60612, 2508, from R-1 Residential to CD-CB Conditional District Community Business for a retail shopping center with specific uses prohibited on approximately 27.53 acres.

Ms. Birchett reviewed the agenda notes for this request as follows:

Introduction & Background: A legislative public hearing was held on the request June 19, 2017. Planning staff presented the request. Also present were Mack Paul with the Morningstar Law Group, Jeff Surrency with the Morgan Property Group, and other representatives for the applicant. Also in attendance were approximately 30 residents of the Polk's Landing subdivision and surrounding neighborhoods who spoke in opposition of the request. Mr. Paul presented a PowerPoint presentation a copy is available on the Planning Department website.

Numerous emails and petitions have been provided to the Planning Department and have also been placed on the website for review (Attachment No 1). The following findings are based on the application and the supporting documentation provided, as well as the comments and concerns that have been provided in response to the application.

Discussion & Analysis: The property under consideration for rezoning is currently zoned R-1, Residential and the uses allowed are primarily residential with a minimum lot size of one dwelling unit per 40,000 square feet. The requested zoning of Conditional District – Community Business is “similar to the Neighborhood Business District, but at a slightly larger scale, roughly equivalent to a 80,000 square foot grocery store and ancillary services. No building within this district shall exceed 80,000 square feet and the cumulative building square footage shall not exceed 320,000 square feet.”

The properties under consideration for rezoning area located at or near the intersection of Polks Landing Road and US 15-501 North. Polks Landing Road is a two lane road that serves several residential developments and is the only access for these developments. US 15-501 North is a 4 lane divided median road that is a major transportation route within

the county and region. Immediately south of Polks Landing Road and on the east side of US-15-501 North is Lystra Road.

The zoning on the properties to the west and south are currently zoned R-1, Residential, and properties on the other three corners of US 15-501 North, Polks Landing Road, and Lystra Road are zoned CU-B-1, Conditional Use Business. The intersection of Polks Landing and Lystra Roads are offset, but the approved developments on the three corners span north and south of both roads (see gis map included online). The following is a breakdown of the non-residential rezonings that have been approved near the properties under consideration for rezoning:

- Polks Village (north of Polks Landing Road) – 125,000 square feet and currently under development
- Chatham Downs (southeast corner of Lystra Road and 15-501 N) – 117,000 square feet and largely built out with an addition to the grocery store currently submitted for permitting
- Williams Corner (northeast corner of Lystra Road and 15-501N) -348,500 square feet and no development has occurred.

There are also other projects that have been rezoned for mixed use commercial developments in the surrounding area that are under construction and include:

- Briar Chapel (approximately 1.5 miles south) – 510,000 square feet with development of approximately 50,000 square feet completed and grading occurring on the remainder of the commercial space
- Fearington Place (approximately 2.5 miles south) – 81,000 square feet and no development has occurred.

The rezoning application indicates that this development is intended to be anchored by a grocery store and there are three grocery stores within two miles of this location. Several of the other commercially zoned projects that are under development or have not started construction are approved for a grocery store. This was also covered earlier in these minutes.

The parcels are located in a WS-IV Protected Area watershed district and also within the Jordan Lake drainage. The Watershed Protection Ordinance limits built upon area for non-residential projects to 24% if curb and gutter drainage is used in parking areas or 36% if it is not used.

Conditional Zoning districts are zoning districts in which the development and use of the property is subject to predetermined ordinance standards and the rules, regulations, and conditions imposed as part of a legislative decision creating the district and applying it to the particular property.

Some land uses are of such a nature or scale that they have significant impacts on both the immediate surrounding area and on the entire community, which cannot be

predetermined and controlled by general district standards. The review process established in this Ordinance provides for accommodation of such uses by a reclassification of property into a conditional zoning district, subject to specific conditions, which ensure compatibility of the use with neighboring properties. A conditional zoning district is not intended for securing early zoning for a proposal, except when that proposal is consistent with an approved land use plan or the proposal can demonstrate that public infrastructure needed to serve the development will be made available within a reasonable time period.

The applicant held the community meeting, as required by the zoning ordinance, on April 27, 2017. A listed of issues discussed was attached with the application and include concerns such as noise, stormwater retention, view from neighboring residential subdivision and competition with nearby grocery stores.

An on-site meeting with the applicant, planning staff, planning board members, Commissioner Hales, and residents of the Polk's Landing subdivision was held on June 8, 2017. Photos are included as attachment No. 3 as well as photos from the June 2, 2017 posting of the property.

The applicant met with the Chatham County Appearance Commission (CCAC) on April 26, 2017. The CCAC recommended preserving as many of the existing mature cypress and hardwoods as possible along the perimeter of the parcels fronting 15-50, especially where no buildings or parking areas will be located. The applicant was reluctant to commit to what they could preserve due to concerns about the proposed grading plans they were just starting to develop. The CCAC thought the existing vegetation could remain instead of having to replant it a later date once construction was complete. The applicant submitted a revised landscape plan (provided on the website) on June 19, 2017 where it is stated there is to be perimeter buffer landscape that will be met with a combination of existing vegetation and newly planted trees and shrubs. It is still unclear the extent in which the developer will leave existing vegetation.

There was also discussion in detail about the requirements to ensure parking lot canopy trees shall survive. This would be provided by removing two parking spaces at each tree island to allow more pervious area for root growth and spread of the tree. The revised landscape plan does not show the reduction in the number of parking spaces and shows more parking than is required. The CCAC felt that if they would remove the extra spaces, the areas around the canopy trees could be made larger to help ensure the trees flourish.

On July 25, 2017, planning staff received a parking island design that does show an increase in the perimeter areas around the trees to be planted in an effort to ensure survivability of the plantings.

It is planning staff opinion this issue be postponed and/or discussed further to obtain a more definite commitment on the sustainability of maintaining portions of the existing vegetation specifically in front and to the south of the area to be designated as the septic field area and in some areas of the perimeter landscape area as requested.

There are five standard items listed in the Zoning Ordinance that must be addressed by an applicant when submitting a rezoning application. The applicant has addressed those items in the application materials or in supplemental material and they are also discussed below.

Item #1: The alleged error in this Ordinance, if any, which would be remedied by the proposed amendment with a detailed description of such error in the Ordinance and detailed reasons how the proposed amendment will correct the same. While there is no purported error in the Ordinance being addressed by this request, the Applicant notes that the County is undergoing an update to the Comprehensive Plan. The update includes a recommendation to designate the area where this project is proposed as a Community Center. As noted, the current draft of the comprehensive plan has not been adopted by the Board of Commissioners and any decision should be based on the currently adopted Land Conservation and Development Plan.

It is planning staff opinion this standard is met.

Item #2: The changed or changing conditions, if any, of the area or in the County generally, which make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare. Development along this section of the 15-501 corridor has been shifting to non-residential uses, specifically commercial, and where side roads intersect. Residential uses fronting onto 15-501 in this corridor are interspersed between the commercial nodes. Additionally, the need for goods and services in this area are growing as more residential neighborhoods are being built in the vicinity. For example, per the application, a study conducted by the County regarding the US 15-501 Corridor reveals that since 2000, there has been rapid population growth along the corridor and that residential growth has outpaced non-residential in that same period. The requested rezoning meets these changing conditions by offering more goods and services for nearby residential uses.

The other three corners of the intersection have been approved for commercial, office, and medical uses. Although Williams Corner, which is located diagonal from this proposed location, hasn't been developed, this applicant has stated they are appealing to the "going home" traffic heading south on US 15-501. All other major grocers are located on the northbound side of the highway.

There is also still commercial space in Briar Chapel's commercial nodes to be developed as well as a commercially approved site on the south direction of 15-501 at Morris Road known as Fearington Place. That location has an approved site plan with outparcel and was expected to be a grocery as well.

It is planning staff opinion this standard is met.

Item #3: The manner in which the proposed amendment will carry out the intent and purpose of any adopted plans or part thereof by encouraging the expansion and support of current business located within the county. Part X., Goal 3 of the Land Use Strategic Plan recognizes Chatham County as a desirable site for commercial development. The proposed amendment is in line with this stated goal since a commercial

district is being requested. The County also has a stated goal of establishing transit service in this area. The Applicant submits that the proposed amendment would help justify transit services in this area by proving a destination for such transit other than merely residential areas.

The County is undergoing an update to its Comprehensive Plan. Though not yet adopted, the Applicant found various items related to the update informative for this project. The scope of work included an analysis of the 15-501 corridor north of the Town of Pittsboro. Among other things, the analysis identifies US 15-501 as being the appropriate location for the expansion of non-residential uses that could provide goods, services, and employment opportunities. However, additional design standards may be needed as part of the implementation of the comprehensive plan once it is adopted.

It is planning staff opinion this standard is met.

Item #4: The requested amendment is either essential or desirable for the public convenience or welfare. The applicant states the request expands the ability for retailers to locate conveniently within Chatham County. As expressed in its study of the US 15-501 Corridor, the County has recognized that there is a lack of retail uses on the ground in this corridor. Additionally, the study makes clear that the tax base is unbalanced, with an undue portion of the tax burden falling on residential property owners.

There were numerous letters and emails in opposition from the surrounding residential property owners. One major concern is that although competitive business is legal and good in most respects, there could be a damaging effect by having too much one type of business in such close proximity to each. Specifically, the Harris Teeter on the opposite side of 15-501, the Lowes grocery less than one mile to the north and the Walmart grocery less than two miles to the north. The applicant provided some marketing information that includes support for all business in this area would be needed even with the completion still to be done with Briar Chapel as well as the other currently filled subdivisions. Per the study an estimate of about 35,000+ people reside in about an 8 mile radius which supports multiple grocery businesses. The approved development in Pittsboro known as Chatham Park may also play a critical part in business expansion in Chatham County.

The Land Conservation and Development Plan states on Page 4 that one of the major recommendations is to designate cross-roads commercial center locations to serve the needs of surrounding rural areas. This has been upheld with the rezoning of the other three corners of this intersection.

It is planning staff opinion this standard is met. However the Planning Board may wish to discuss the timing of this proposal as it relates to the other already approved commercial properties that have not been constructed.

Item #5: All other circumstances, factors, and reasons which the applicant offers in support of the proposed amendment include a report provided by Ramey Kemp and Associates following the public hearing dated July 13, 2017 regarding the street capacity and configurations being recommended to NCDOT for approval. This new report is on the planning website. The report basically states there will be some needed

improvements but that based on the new 10 year projection, should be acceptable. The county has not received the final review from NCDOT on this new report.

The property will be served by county water and will maintain their own septic system on the southern portion of the development parcel.

The applicant states they set out to find a suitable location for a retail development in Chatham County in response to the community's growing needs. The subject site was selected due to its ideal location on the "going-home" (southbound) side of US 15-501. US 15-501 has had significant road improvements which also factored into the selection of the site. There is a traffic signal at the intersection of Lystra Road and 15-501 N which would be accessed by this site. These factors, paired with the relatively flat topography and lack of sensitive environmental features on the site ultimately led Morgan Property Group to select the site for the proposed retail development.

It is planning staff opinion this standard is not met and recommend the item to be tabled for another meeting to allow NCDOT to provide comments on the proposed road configurations and acceptability of the reported information provided by Ramey Kemp & Associates.

Planning staff also recommends tabling the matter for another meeting and allow the developer additional time to consider revising the landscape plan to show that the septic fields will not be mass graded and all existing mature growth removed, as well as show which group of existing mature vegetation along the remaining perimeters will be preserved within the required 20 feet of landscape buffer area.
Recommendation

The Planning Board has up to three (3) meetings in which to provide a recommendation to the Board of Commissioners. Should your recommendation be in support of the rezoning request and proceed with a recommendation to the BOC, the following **Consistency Statement** is also provided for consideration:

It is the opinion of the Planning Board that the rezoning request for Parcel Nos 2719, 2720, 2721, 69884, 60612, 2508, are consistent with the goals and objectives of the Land Use Plans of Chatham County by supporting the continuation of existing business at an intersection with three quadrants zoned for business and protecting ground and surface waters with no more than 36% development allowed without curb and gutter or 24% if curb and gutter.

Ms. Birchett reported that the applicant has met with some Commissioners and Planning Board members and have had some discussions. There was a request; although the applicant had no legal right to comply and they did not have to provide this information are not legally bound to provide her provided her with a supporting letter dated July 21, 2107 from Publix today. Ms. Birchett read the letter during the meeting.

Should your recommendation be for approval, the following conditions are also provided for consideration:

Site Specific Conditions

1. The recommendations of the Chatham County Appearance Commission shall be followed as recommended. Existing vegetation should be preserved and maintained as reasonably necessary and as allowed by development of the site. Required plantings shall be installed by the next optimal planting season following the issuance of the first building permit.
2. A building permit shall be obtained and remain valid at all times within two (2) years of this approval or it shall become null and void.

Standard Site Conditions

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

Standard Administrative Conditions:

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

After the Public Input Mr. Paul with the Morningstar Law Group and Mr. Wilson with the Morgan Property Group were available for questions and comments. Mr. Paul based on the

recommendation and staff report they are still waiting final confirmation from DOT for the access and more clarification of what trees are staying and which are not. They should know shortly and will report on that. He responded to some of the comments they have heard. They reviewed some slides showing maps of the Polks Landing property, zoned commercial properties and tree areas. For them to commit to what they are doing, they need community input. He feels that they have addressed the majority of the questions and will drill down more. The development would be a complimentary and strengthen the other businesses there like the daycare, Senior Care center. They can get into the traffic concerns deeper once they get the report from DOT. This is one of the top national grocery stores and it's critical to meet the demand of the driving home side but also Governs Village, citizens to the north and south. Publix is employee owner and they have a strong reputation to giving back to the community.

Board Discussion followed- Some specifics noted were:

- In light of the 3 grocery stores in short distance, what matrix was used to determine this?
- *Why Community Center vs. Neighborhood Center?*
- *What is DOT going to do differently with this impact study?*
- *Our responsibility as a board is for the residents that live here*
- *There is no merit to a "going home" shopping center*
- *There are numerous nearby areas already zoned which could accommodate a grocery store so why rezone now?*
- *Is there a condition saying there will be a Publix or a grocery store?*
- *Do you know what Lowes and Walmart do a year? 50-60 million for Walmart*
- *Briar Chapel is a more desirable site than Polks Landing and other areas already zoned for commercial development*
- *Hard to argue the necessary desirable and make that finding, not only the concerns of citizens that would be being most affected by this.*
- *With the existing zoned areas, another large community center would create bad traffic congestion for nearby residents*

One board member stated that this request has engaged him more than any. Not including Chatham Park there is 900,000 square feet of zoned unbuilt commercial along 15-501. There is no need for additional zoning at this time. During the weekday p.m. and some a.m. traffic movements declined to level of service failures at Polks Landing/Williams Corner Site with or without synchronized streets despite developer improvements. The topography of this site does not lend itself to commercial development. Significant leveling wall work will change the nature of the community. Proximity of Bennett Mountain may also identify rock out crops on site. Development may adversely impact Pokeberry Creek and adjacent wetlands.

There was no further discussion by the board

Motion to reject: Mr. Gaeta made a motion to reject this rezoning request; seconded by Mr. Elza.

Motion to reject request Passed unanimously 10-0

IX. COMPREHENSIVE PLAN UPDATE & DISCUSSION:

X. NEW BUSINESS:

XI. BOARD MEMBER ITEMS:

Chair Lucier reminded board members that the next Public Hearing is scheduled for August 21, 2017.

XII. PLANNING DIRECTOR'S REPORTS:

- ***Minor Subdivisions/Exempt Maps*** - Information was included in tonight's agenda packet.

XIII. ADJOURNMENT: There being no further business, the meeting adjourned at 10:53 pm.

Signed: _____ / _____
George Lucier, Chair Date

Attest: _____ / _____
Paula Phillips, Clerk to the Board Date