

CHATHAM COUNTY PLANNING BOARD
MINUTES [
August 7, 2007

The Chatham County Planning Board met in regular session on the above date in the auditorium of the Cooperative Extension Building in Pittsboro, North Carolina. A quorum was present to begin the meeting. The members present were as follows:

Present:

Sally Kost, Vice-Chair
B.J. Copeland
Karl Ernst
Barbara Ford
Warren Glick
Clyde Harris
Jim Hinkley
David Klarman
Judy Sharman
Delcena Turner

Absent:

Chris Walker, Chair

Planning Department:

Keith Megginson, Planning Director
Jason Sullivan, Assistant Planning Director
Lynn Richardson, Subdivision Administrator
Angela Birchett, Zoning Administrator
Kay Everage, Clerk to the Board

- I. CALL TO ORDER – Vice-Chair: Ms. Kost called the meeting to order at 6:00 p.m.
- II. APPROVAL OF AGENDA: Mr. Glick made a motion; seconded by Ms. Turner to approve the agenda as submitted. There was no discussion on the motion and the motion passed unanimously.
- III. A. CONSENT AGENDA: Ms. Kost stated that it was requested that the minutes (Item A.) be removed from consent agenda to make one correction; and that final plat approval (Item B., 1. and 2.) be removed from consent agenda for discussion. Mr. Hinkley made a motion; seconded by Ms. Sharman to remove items from consent agenda for review. There was no discussion on the motion and the motion passed unanimously. Ms. Kost stated that since no one requested to speak during the “Public Input Session” that these items would be discussed next on the agenda.
 - A. Minutes: - Note: *This item was removed from consent agenda for review. See Item III. B. below.*
~~Consideration of a request for approval of Board minutes for July 10, 2007 Planning Board meeting.~~
 - B. Final Plat Approval: Note: *These items were removed from consent agenda for review. See Items III. C. 1. and 2. below.*

- ~~1. Request by Van R. Finch, Land Surveys on behalf of Fitch Creations for subdivision final plat approval of "Fearington McDowell Place", consisting of 15 lots on 14 acres, located off SR-1812, Weathersfield, Williams Township.~~
2. Request by Staley Smith, Smith & Smith Surveyors on behalf of HBP Properties for subdivision final approval of "Legend Oaks, Phase Two", consisting of 27 lots on 46 acres, located off U.S. Hwy 15-501 N., Williams Township.

End Consent Agenda

III. B. Minutes:

Consideration of a request for approval of Board minutes for July 10, 2007 Planning Board meeting.

Ms. Kost stated that vote on amendment to motion on page 135 regarding "Subdivision of Barber Lands", should read, "the amendment to the motion failed 4-6-1 (instead of 3-7-1) with Copeland, Ernst, Harris and Walker voting in favor of the motion; and Kost, Glick, Hinkley, Ford, Sharman and Turner voting against the motion; and Klarmann abstaining". She noted that Mr. Walker voted in favor of the motion and not against the motion as noted in the minutes.

Mr. Hinkley noted a typo on page 126, third paragraph as follows: "that John Dorney with NC DWQ visited the site with her (Ms. Weakley) a few months ago and she has asked Mr. Dorney to look into the fact that a stream was ~~grated~~ graded and replaced with a storm water pond".

Mr. Hinkley made a motion; seconded by Ms. Sharman to approve the July 10, 2007 Planning Board minutes as submitted with the revisions referenced above. There was no discussion on the motion and the motion passed unanimously.

C. Final Plat Approval:

1. Request by Van R. Finch, Land Surveys on behalf of Fitch Creations for subdivision final plat approval of "Fearington McDowell Place", consisting of 15 lots on 14 acres, located off SR- 1812, Weathersfield, Williams Township.

Mr. Kost stated that Ms. Sharman requested that this item be removed from consent agenda.

Ms. Sharman stated the importance of building energy star homes and asked that the developer consider this.

Robert Flynn with Fearington Development stated that their custom built homes are energy efficient and that energy star homes are made available for the home owner's consideration.

Mr. Hinkley made a motion; seconded by Ms. Sharman to grant final plat approval of "McDowell Place" as submitted and as recommended by staff. There was no discussion on the motion and the motion passed unanimously.

2. Request by Staley Smith, Smith & Smith Surveyors on behalf of HBP Properties for subdivision final approval of "Legend Oaks, Phase Two", consisting of 27 lots on 46 acres, located off U.S. Hwy 15-501 N., Williams Township.

Ms. Kost stated that Ms. Sharman and Mr. Hinkley requested that this item be removed from consent agenda.

Ms. Sharman reiterated her concern that energy star homes be considered.

Eric Braun, attorney, was present representing the applicant. Mr. Braun stated that he would pass this concern on to the developer.

Mr. Hinkley recommended an inclusion to the vicinity map portion of the plat map as follows: to show U.S. Hwy. 15-501 (public road) and to connect the site with the public road.

Discussion followed. Mr. Klarman requested that the developer provide staff (and Planning Board) the name of the contractor to install the off-site septic systems. Ms. Richardson stated that the Environmental Health Department asked that the four (4) off-site septic areas be installed by one septic contractor; and that staff has made a revision to the recommendation that states:

"Prior to recordation of the final plat, or to be included in the improvements covered by the financial guarantee, the developer shall install all of the supply lines for the off-site sewage treatment systems according to the requirements of the Chatham County Division of Environmental Health".

Brantley Powell, subdivision owner, was present. He stated that he is in the process of arranging for a licensed utility contractor to install the supply lines.

Mr. Harris made a motion; seconded by Mr. Klarman to grant final plat approval of "Legend Oaks, Phase Two", with the following conditions:

1. The developer shall have one contractor install all of the supply lines for the off-site sewage treatment systems according to the requirements of the Chatham County Division of Environmental Health prior to recordation of the final plat or include the cost of the installation of said improvements in the financial guarantee.
2. The vicinity map on the mylar copy of the plat shall show U.S. Hwy 15-501 and connection of Legend Oaks, Phase II to the public road.

Discussion followed. Mr. Klarmann inquired if the name of the septic system contractor could be requested to insure that the individual has appropriate soil license and is a reputable contractor. Mr. Megginson stated that this is public record and could be accessed from Environmental Health Department.

The motion passed unanimously.

IV. PUBLIC INPUT SESSION: Fifteen-minute time of public input for issues **not on agenda**. Speakers limited to three minutes each.

No one requested to speak at this time.

V. SKETCH DESIGN APPROVAL:

- A. Request by S & S Partnership for subdivision sketch design approval of "Larkspur", consisting of 22 lots on 46 acres, located off S. R. 1526, Andrews Store Road, Baldwin Township.

Ms. Richardson reviewed the agenda notes for this subdivision request. She stated that Lunday Riggsbee is not the attorney for the applicant as was incorrectly stated in tonight's agenda notes; and that one question that needs to be resolved before preliminary plat submittal is whether or not NCDOT will take over the road for maintenance once the density is there.

Kevin Whiteheart, Chatham County Attorney, stated that he, Ms. Richardson, and Mr. Megginson reviewed the recorded easement; that unfortunately the language of the easement is not a right-of-way; that it is an easement for ingress and egress and for maintenance and placement of utilities; that ordinarily NCDOT would require a right-of-way agreement and not merely an easement; and that the easement has worked well up until now.

Ms. Richardson stated that the applicant and Mr. Mann are in discussion regarding the easement and that this is an issue that the applicant understands must be resolved before preliminary plat submittal; that the applicant could not proceed with this plan if an agreement is not met; and that the road could remain private but lots would have to be 3 acre min. / 5 acre average.

Board discussion followed. Mr. Glick was concerned that sketch design approval would be inappropriate with the roadway in this position and if an agreement was not reached with the applicant and Mr. Mann. Mr. Whiteheart stated that various approvals are submitted at preliminary plat stage, i.e. driveway cuts, NCDOT permits.

Ms. Richardson continued review of the agenda notes. She stated that staff has added an additional conditional as follows:

Condition #5: The applicant shall provide with the preliminary plat submittal evidence that the proposed public roadway can be dedicated to the NCDOT for future maintenance once density requirements have been met.

Ms. Richardson referenced the revised plat map provided tonight by the surveyor. She stated that the map indicates a wetland area; that a 20 foot wide buffer would apply around the wetland area; but that if the wetland is determined to be a stream the appropriate stream buffering would apply.

Charles Eliason, Absolute Land Surveying and Mapping, was present representing the applicant. Mr. Eliason stated that when the initial project was brought before the Planning Board the roadway was parallel and along the southwestern edge of the Cardinal Pipeline utility; that there was concern that this was a lot of new disturbance in existing territory; that a decision was made to pursue relocating a portion of the roadway with the existing Lichen Trail to minimize new ground disturbance; that lots behind the northern property owners were removed; that density of lots along Brooks Creek was reduced; that driveway cuts into the roadway were reduced by utilizing internal access and common driveways'; and that wetland areas would be buffered by 20 feet.

Discussion followed. Mr. Hinkley recalled lot #1 being extremely bouldery and questioned whether a septic site could be found on this lot. Mr. Eliason stated that lot #1 does have usable areas; that there is room to adjust common boundaries between lots 1, 2 and 3 if needed; that lot #12 is not as severe and does have adequate usable area; and that there is some flexibility with various adjustments as the proposal moves forward. Mr. Klarmann inquired if there are future proposals for expansion of the 30 foot easements. Mr. Eliason stated that the 30 foot easements would only serve four (4) lots and these are intended to be 30 foot with no plans for expansion. Mr. Hinkley stated that it would be wise to have a "T" intersection rather than just having a curve coming off Lichen Trail. Mr. Eliason stated that a DOT roadway connection would have to be submitted and put into the plan and details would be presented at preliminary plat submittal. Ms. Turner stated that she recalled Lichen Trail being narrow and she was concerned that an extension of the roadway would destroy the surrounding forest. Mr. Eliason stated that existing Lichen Trail is much closer to the eastern edge of the right-of-way; that it is possible that the developer would need to extend over onto the property 5-10 feet if there is a situation where the developer cannot accomplish the side slopes and the grading on the western side of the easement; and that it is their desire to maintain the character of Lichen Trail. Ms. Ford voiced concern with the Board going forward with approval of the request before the situation with Mr. Mann and the applicant is resolved. Mr. Eliason stated that he has spoken with Mr. Mann and is waiting on a reply; and that sketch design approval would give him a reason to work with Mr. Mann. Mr. Hinkley noted steep slopes, a gulley, and a spring at the curve coming off Lichen Trail up in the cul-de-sac and that he suggests 20 foot buffering around the spring. Mr. Eliason stated that this is proposed but does not show on the plat map. Mr. Eliason noted that he has currently not met with the neighbors. Ms. Sharman stated that she was pleased with the proposed open space and voluntary buffering.

The following adjacent landowners spoke:

- Jeannie Ambrose, 675 Lichen Trail

Ms. Ambrose stated that she and her husband own adjacent property south of the Larkspur development. Ms. Ambrose distributed copies of her hand-out titled, "Larkspur Subdivision, A Brief Visual Guide of its Landscape Features", dated July 27, 2007. A copy of the seven (7) page document is on file in the Planning Department. She reviewed topics of her hand-out (as noted below) and showed various pictures from the hand-out on the overview screen. Some

specifics noted were wetlands in the winter months, stream crossings (lots 4 and 15), creeks and streams, Wilkerson Creek 2005 and current.

Objective: To show both the natural and man-made landscape features

Purpose: To identify those areas which require the appropriate setbacks/buffers and/or installation of filters (skimmers, baffles, & riprap) to prevent the silting of streams and wetlands as well as erosion damage to adjacent lands caused by increased natural storm water runoff created during lot development and road construction.

Content: - Larkspur Subdivision PSP Map (modified to show culverts and wetlands)
- Wetlands (at culverts 2 & 4)
- Five Culverts along Lichen Trail
- Rocky Outcrop (lot 1) and Hilly Terrain (pipeline, lots 19 & 22)
- Wilkerson Creek

Ms. Ambrose expressed concern regarding, 1.) emergency vehicle access and 2.) cumulative affects on water resources and forest land in Chatham County.

- David Botts, 289 Forest Lights Lane

Mr. Botts stated that he owns ten (10) acres bordering both sides Wilkinson Creek; that heavy sedimentation flows down the creek with each heavy rain fall. He voiced concern regarding the cumulative effect on our watershed from streams that are not properly buffered because they are not designated as being a stream. Mr. Botts noted two specifics as follows:

1. The Board considers requiring an environmental impact study on this proposal because of the problems with Jordan Lake, the watershed, and new rules and regulations from the State; and,

2. It is essential that the property owners of the two lots that would have access from Lichen Trail on the private easement become part of the road maintenance agreement.

- Mark Botts

Mr. Botts stated that David Botts (who previously spoke) is his brother. He showed two (2) photos (using the overview screen) of an area designated wetland on the plat map but should be defined as a stream with 50 feet buffering on each side of the stream. Mr. Botts asked that the Planning Board review this issue.

- Betsy Kraus, 680 Lichen Trail

Ms. Kraus stated that she appreciates the proposed open space. Some of her concerns were:

- Number of driveways on Lichen Trail
- Amount of additional traffic expected

- Her private access merge with the proposed public road, i.e. traffic circle at the intersection rather than a “T”
- Proposed entrances, i.e. community entrance and not a developer’s entrance
- Proposed name of road
- Could Lots 21 and 22 be accessed from the development interior road
- Open space ownership

Ms. Kraus stated that Wilkinson Creek flows into the Haw River just above the water intake for Pittsboro; that Pittsboro water supply is currently not meeting State standards and this is part of the reason; that there is so much development along Wilkinson Creek and there are no signs of the developer’s offer to control sediment are being affected in conserving our water quality; that her neighbor recently talked with Mr. Mann and was told that he (Mr. Mann) does not want to deal with this issue at this time due to family matters; and that if the Board passes this request Mr. Mann would see it as an okay and pressure to concede.

Mr. Eliason addressed some of the above concerns as follows:

- traffic count (approximately 22 – 40 vehicles leaving in am and returning in pm)
- road name has not yet been determined
- lots 21 – 22 were deliberately not accessed by interior road because it would require crossing a wetland drainage area of concern, and
- stream identification to be explored and buffered appropriately if warranted.

Mr. Eliason stated that he has spoken with Mr. Mann; that Mr. Mann is aware that all his neighbors are not entirely in favor of this project; that he wants to do the right thing by his neighbors; and that he would be in touch if he decides to Sell the right-of-way.

- Schell Simpson

Mr. Simpson stated that 2.04 acres of proposed open space abuts his property; that if this land should be developed in the future could the Planning Board make a decision that any use of the 2.04 acre open space (abutting his property) constitute a major change and require a new approval; that he requests an Environmental Impact Assessment and a peer review by the Environmental Review Board; that he is concerned about the cumulative effect of 22 new septic systems on an aquifer that is low; that there is a history of dry wells in the area; that he is also concerned about the impact of development up hill from his property; that his property is at the bottom level of several significant slopes; that if trees on lot #20 were removed his property could experience more storm water runoff; and that he is concerned with well water contamination. Mr. Simpson request that the Larkspur Subdivision developer be held financially responsible for connecting his house to county water and for his county water fees if his well water were ever to be contaminated or depleted as a result of Larkspur Subdivision. Note: a copy of Mr. Simpson’s comments titled, “Kelly Hanner and Schell Simpson: Concerns regarding Larkspur Subdivision Development Plans impacting our property”, is filed in the Planning Department.

Mr. Megginson stated that the question about ground water yields and contamination has come about on numerous occasions with developments; that unless there is a contamination that can be traced back to a source, typically there is no liability; and that it would be hard to determine that a particular development caused the situation.

Mr. Eliason stated that the 2.04 acres of open space (that Mr. Simpson alluded to above) would not be built upon; and that the water line stub would not extend into Lichen Trail.

Motion to approve as recommended by staff:

Mr. Harris made a motion; seconded by Mr. Klarmann to grant sketch design approval of "Larkspur" as submitted and as recommended by staff with the following five (5) conditions:

1. A note shall be placed on the preliminary and final plats stating that Lots 11, 12, 13 and associated open space shall be accessed from the proposed public, state maintained roadway and not from Lichen Trail.
2. The two private easements serving four (4) lots shall be improved for the entire length of the easement to a 16 foot travel way with four inches of crush and run stone.
3. The preliminary and final plats shall reflect the correct number of lots noted under the Site Data., i.e. 22 lots not 24.
4. The preliminary and final plats shall reflect the correct deed book and page number reference for the private easement known as Lichen Trail.
5. The applicant shall provide with the preliminary plat submittal evidence that the proposed public roadway can be dedicated to the NCDOT for future maintenance once density requirements have been met.

Discussion followed. Mr. Glick stated that he respects the above comments of surrounding neighbors; that he has not heard any comment that would preclude his positive feelings about this development and the responsiveness of the developer; that certain issues still remain open; that he would like to see some form of legal letter indicating that the roadway situation has been resolved; that he would like an Environmental Review Board peer review; and that he would like the developer to agree extending the wetland buffers from 20 feet to 50 feet on lots 7,8, 9, and 21 with the possibility of eliminating lot #9 as a building lot (for lack of sufficient building space). Ms. Ford stated that she agrees with Mr. Glick's comments; that she hesitates to ask for an environmental assessment since that would warrant sketch design approval; that she would like someone (possibly from the Environmental Review Board) to look at the questionable wetland / stream area; and that she has concerns about the road issue with Mr. Mann and the developer. Ms. Turner stated concern about the situation with Mr. Mann and the neighbors comments voiced tonight. Mr. Copeland suggested expanding the wetlands all the way to the eastern boundary. Mr. Eliason stated that the developer is agreeable to apply the 50 foot buffer along this line. Mr. Hinkley stated that this is an extremely difficult piece of

land to design and make functional; that to redesign the project and reduce the number of lots by approximately one-half, would create a more environmentally sound development; and that he would like for the Environmental Review Board to review this before a sketch design is approved. Ms. Sharman asked the time frame the Planning Board had to act on this request. Ms. Kost explained that the Board needs to act on the motion that is on the table; and that the Planning Board has one more meeting (September 4, 2007 meeting) to send a recommendation on to the Commissioners. It was noted that if the developer postpones the request that the Planning Board would have until October 2, 2007 to make a recommendation. Mr. Whiteheart stated that he is unsure if the Environmental Review Board would have time to take action on this before our next meeting since they already have five issues for review. Mr. Ernst stated that he recently visited the site and that his perception of the area in question was that it is a wetland and not a stream; that he is certain Mr. Eliason will make every effort to create a viable project; and that issues noted tonight would be resolved as the development moves forward. Regarding Mr. Hinkley's above remark about the idea of having larger lots, Mr. Klarmann stated that Chatham County requires developers (if in a certain distance of county water lines) to use county water; and that this forces the developer to make lots small, i.e. expensive infrastructure.

Motion failed due to tie vote:

The motion to approve Larkspur as presented with staff recommendation failed with a tie vote of 5-5 with Harris, Klarmann, Copeland, Ernst, and Kost voting in favor of the motion; and Ford, Glick, Hinkley, Sharman and Turner voting against.

At this time, Ms. Kost stated that the Board could reconsider a tie vote or entertain another motion.

Motion to approve with two additional conditions:

Mr. Glick made a motion; seconded by Ms. Sharman to grant sketch design approval of "Larkspur" as presented and as recommended by staff (with the five (5) conditions stated above) and to include two (2) additional conditions as follows:

6. Prior to preliminary plat submittal, the applicant shall have an Environmental Impact Assessment completed and reviewed and approved by the Environmental Review Board.
7. The 20 foot wide buffer proposed around the wetland area affecting lots 8, 9, and 21 shall be expanded to 50 feet and continued to the eastern property line.

The motion passed 6-4 with Glick, Sharman, Kost, Copeland, Harris, and Klarmann voting in favor of the motion; and Ernst, Ford, Hinkley and Turner voting against.

5 Minute Break (7:50 p.m.)

VI. PRELIMINARY PLAT APPROVAL:

A. Request by Bynum Ridge, LLC on behalf of Chatham Partners, LLC and Roanoke Investments, LLC for subdivision preliminary approval of "The Parks at Meadowview, Phase 5", consisting of 155 lots on 155 acres, located off SR-1520, Old Graham Road, Center Township.

Ms. Richardson reviewed the agenda notes for this subdivision request. She stated that the developer has agreed to wider buffers twice the buffer width currently required.

Ms. Ford noted an inconsistency with the number of lots noted in tonight's agenda notes, i.e. 155 vs. 139.

Nick Robinson, attorney, was present representing the applicant. Mr. Robinson explained that the 155 acres were added when this application was brought back to revise the PUD for the entire Parks at Meadow Planned Unit Development; that 600 lots were already approved; that with the modification of the entire PUD, 155 lots were put into this part; and that there is still only a total overall additional amount of 139 lots for the entire subdivision (which means that 16 lots somewhere else within the subdivision were eliminated), i.e. 600 lots

- 16
+155
739 lots

Mr. Harris referenced letter dated July 17, 2007 from Paul G. Joyce, Assistant Superintendent, Chatham County Schools, included in tonight's agenda packet regarding over-crowded schools.

Mr. Robinson stated that the checklist for subdivision submittal asks the developer to solicit comments from the school system about the roadways in the subdivision; that he has made a practice to send a letter to the school system (ahead of time) regarding a subdivision preliminary submittal with the plat map enclosed and a description of the proposed roadways for comments; that until recently he has not received any response; and that school capacity is not the intent of his letter to the school system. Mr. Robinson stated that this is a gated community but school buses would go through the development.

Board discussion followed regarding over-crowded schools and the Tischler Study referenced in the letter from Chatham County Schools as noted above. Ms. Kost stated that the Tischler Study was a study by a consultant to determine what the maximum amount of an impact fee could be (i.e. calculating the cost of development); and that the 1/2 student per household used in the study has been debated many times. Mr. Megginson stated that the study was done in 1999; that Paul Tischler of Tischler & Associates, Inc., is a national firm known all over the United States; that Chatham County hired Mr. Tischler to do the study and some specifics reviewed were:

- overall dwelling units in the county
- the types of dwelling units (multi-family, single family, mobile home)
- number of schools in the county

- space per child per school at that time and cost
- census information
- growth rates, and
- average cost of different types of dwelling and tax generated.

Mr. Megginson stated that the Commissioners are considering having this study updated. Mr. Whiteheart clarified that the Board cannot disapprove a subdivision because it would overcrowd schools since there is no Adequate Public Facilities Ordinance in place. He referenced language from the General Statutes regarding counties being able to take into consideration schools, recreational and other public facilities; and that this means that a county is authorized to adopt an ordinance concerning what constitutes an adequate public facility system. Mr. Copeland was concerned about the assurance that buffers, open areas, roads, and common areas would be maintained by the Homeowner's Association (HOA). Mr. Robinson stated that this would be part of the restrictive covenant; and that the HOA would comply with the private road standards of the county.

Allison Weakley, Chair, Chatham County Environmental Review Board, stated that Homeowner Associations can vote to do something different with the open space; that a good recommendation to avoid this situation would be to insure that a conservation easement is placed on the open space (and buffers) and conveyed to a land trust or to Chatham County; and that the Soil and Water Conservation has been exploring this.

Joe Faulkner, engineer with the CE Group, Inc. was present representing the applicant. Mr. Faulkner stated that the intent of the development is that there are pocket parts throughout the entire development in walking trails; that it is intended to leave everything in a natural state; and that some areas are depicted on the preliminary plat to remain in conservation.

Mr. Whiteheart explained restrictive covenants.

Board discussion followed regarding road design, curb and gutter, type of houses, i.e. energy star homes, use of insecticides and herbicides, impervious surface, bridges versus culverts, and walk ability.

Mr. Faulkner addressed the above. He stated that there are no permanent stream impacts associated with this portion of the development; that impervious surface for this section does not exceed 24%; that there would be no spray fields on the open space areas in this section; and that sidewalks are planned on at least one side of the roadways.

Motion to approve:

Ms. Sharman made a motion; seconded by Mr. Ernst to grant preliminary plat approval as presented and as recommended by staff; and with approval of the following road names:

'Botanical Way', Oakcrest Court', Brooks Creek Trail', 'Sugarberry Lane', 'Old Fort Drive', 'Walking Trail Lane', 'Wild Woods Trail South' and Wild Woods Trail North'.

There was no discussion on the motion and the motion passed unanimously.

VII. ZONING AND ORDINANCE AMENDMENTS:

Items from July 16, 2007 Public Hearing:

- A. Request by Andrea Snyder for a conditional use rezoning from RA-40 Residential/Agricultural to CU-B1 Business District on approximately 1.137 acres, Parcel No. 82736 located at 587 Old Farrington Rd. (SR 2053), Williams township.

Ms. Birchett reviewed the agenda notes for this request. She stated that this is a two part request (rezoning and conditional use permit); that a home occupation permit would not be applicable since the structure would not be used as a residence; and that staff received E-mails from three citizens with concerns as follows:

- did not want to set a precedence for more establishments, i.e. strip mall situation
- traffic issue, and
- negative impacts on the charm of the area.

Ms. Birchett used the overview map to show and explain current zoning of surrounding lands. She noted that staff recommends approval of the application for rezoning to conditional use business as requested.

Board discussion followed. Mr. Hinkley suggested reviewing the conditional use permit request before acting on this zoning request. It was noted that the Board would need to act on the zoning request before considering the conditional use permit request.

Motion to approve:

Mr. Copeland made a motion; seconded by Mr. Ernst that the request for rezoning to conditional use business be approved as submitted and as recommended by staff. Discussion on the motion followed. Mr. Hinkley asked if it would be permitted to postpone dealing with this issue until after review of the second request for a conditional use permit. Mr. Ernst, Parliamentarian stated that a motion was on the table that was duly seconded. There was no further discussion on the motion and the motion passed 9-1 with all Board members present voting in favor of the motion except Mr. Hinkley who voted against.

Ms. Birchett explained that if the Commissioners were to support the approval for a conditional use rezoning of the property without the conditional use permit the property may have a conditional use rezoning but could not be utilized until someone comes forward with an acceptable and approved conditional use permit to utilize the property. Mr. Megginson noted that, usually if the Board knows they are not going to approve the permit, they won't ever change the district to start with.

- B. Request by Andrea Snyder for a conditional use permit for a beauty salon on approximately 1.137 acres, Parcel No. 82736 located at 587 Old Farrington Rd. (SR 2053), Williams township.

Ms. Birchett reviewed the agenda notes for this request. She stated that the request is specifically for (and for the only use of) a beauty salon. Ms. Birchett referenced the following five findings that need to be met before a conditional use permit is approved.

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.

Finding #2-The requested conditional use permit is either essential or desirable for the public convenience or welfare.

Finding #3-The requested 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.

Finding #4-The requested permit will be consistent with the objectives of the Land Conservation and Development Plan.

Finding #5-Adequate utilities, access roads, drainage, sanitation and/or other necessary facilities have been or are being provided.

Ms. Birchett noted that it is the opinion of staff that findings #3 and #5 cannot be made as explained in tonight's agenda notes.

Board discussion followed regarding existing beauty salons in the area discharging various chemicals into the wastewater treatments plants. Ms. Birchett stated that staff did not receive adequate documentation (or permitting) regarding wastewater system usage for the commercial use. Ms. Kost recommended the following condition

- that the proposed sign be no larger than 25 feet.

Ms. Birchett stated that based on the information received in determining the application materials staff recommends denial of the request based on information not received; but that if the recommendation from the Board is a favorable one it is requested that the Planning Board review any additional conditions imposed upon the request at this time. (See 14 conditions listed in tonight's agenda notes.)

Mr. Hinkley made a motion; seconded by Mr. Ernst that this application request has met or can meet the five findings required and should be approved as requested with one additional condition regarding signage as stated below in condition #2; and that If the Board of Commissioner's decision is to be a favorable one, it is requested that the Commissioners review any additional conditions imposed upon the request at this time. Conditions are as follows:

1. Recommendations from the Appearance Commission shall be followed. Any additional plantings shall be done at the next optimal planting season following the approval date and shall be maintained to thrive and provide the appropriate screening as required. The Appearance Commission with the Planning Department may review the landscaping and screening after one year of the initial planting to verify appropriate measures have been taken as requested. Should there be any changes in the landscaping for effectiveness of screening and environmental protections, they shall be given to the

applicant at this time and the applicant will be given ample opportunity to take the corrective measures.

2. Signage shall be as stated in the application being 1 not larger than five foot by five foot (5' x 5"), 25 square foot sign.
3. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Erosion & Sedimentation Control etc.) shall be obtained and copies submitted to the Planning Department prior to issuance of a certificate of occupancy.
4. Letters of approval from Aqua NC and NCDWQ shall be provided for the commercial connection for this use to the Governor's Club wastewater filtration system prior to issuance of a certificate of occupancy.
5. Off-site improvements required by NCDOT or any other agency shall be constructed at no cost to Chatham County.
6. The parking lot area shall meet the guidelines of the zoning ordinance for 2 spaces per operator. Adequate area shall be provided to ensure no backward movement onto Old Farrington Road.
7. Any and all lighting shall comply with the "draft" lighting guidelines applicable at the time of approval as described in the application.
8. Utility and Access Easements – Easement documents as required by the County for any public utilities used or furnished to the project area shall be recorded prior to the issuance of a certificate of occupancy.
9. Watershed Management - An "as built" impervious surface calculation for all structures, gravel, concrete, and asphalt shall be provided to the Planning Department prior to the issuance of a certificate of occupancy.
10. Silt Control – The applicant and/or landowner shall take appropriate measures to prevent and remove the deposit of wet or dry silt on adjacent paved roadways.
11. Appeal - The County shall be under no obligation to defend any action, cause of action, claim, or appeal involving the decision taken herein. In the event a response is authorized by the County concerning this resolution, or any action to enforce the provisions hereof, the applicant, its successors or assigns shall indemnify and hold the County harmless from all loss, cost or expense, including reasonable attorneys fees, incurred in connection with the defense of or response to any and all known or unknown actions, causes of action, claims, demands, damages, costs, loss, expenses, compensation, and all consequential damages on account of or resulting from this decision. Nothing in this paragraph shall require the applicant to indemnify and hold the County harmless from any losses or costs associated with defense of the County's actions or procedures in considering and acting upon this application.

12. 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 inspection, established from time to time.
13. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued Determination with the plans and conditions listed above.
14. Non-Severability - If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
15. 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.

There was no further discussion and the motion passed unanimously.

Items for August 20,, 2007 Public Hearing: Mr. Megginson stated that the following items (C. D. & E.) are scheduled for August 20, 2007 public hearing; that the Environmental Review Board would address public hearing comments; and that eventually the Planning Board would review the proposed text amendments

- C. Public Hearing request for a proposal by the Chatham County Environmental Review Board to amend Section 304 and other portions of the Chatham County Watershed Protection Ordinance concerning Riparian Buffers Areas. The proposal increases some existing buffer areas, requires buffers on additional drainage ways, specifies permitted and prohibited uses within the buffer areas, and specifies procedures for review of uses. The proposal also provides a section addressing purpose and intent as well as adding definitions and revising definitions in the Ordinance.
- D. Public Hearing request for a proposal by the Chatham County Environmental Review Board to amend Section 5.2 A of the Chatham County Subdivision Regulations to specify threshold criteria of when environmental assessments are required. The proposal requires assessments for all residential subdivisions of six or more lots. Assessments are also required of residential subdivisions of less than six lots and non-residential subdivisions if located within specified areas of the County.
- E. Public Hearing request for a proposal by the Chatham County Environmental Review Board to amend Section 11.3 of the Chatham County Zoning Ordinance to specify threshold criteria of when environmental assessments are required. The proposal requires assessments for projects when located within specified areas of the County.

VIII. NEW BUSINESS:

A. Planning Director's Report

I. *Public Records Law*

Mr. Whiteheart addressed "Public Records Law". He stated that as an advisory board documents of Planning Board members are subject to Public Records Law (E-mail, notes, photos and etc.) since these are public records; that the document retention and destruction guide (approximately 120 pages) of the North Carolina Department of Cultural Resources sets different retention dates or timelines for certain documents; that a seven (7) year retention is stated in said guide; that he has spoken with Mr. Megginson and the County Management Information Systems (MIS Department) in connection with having something like a list serve; that every time an E-mail is sent an address would be inserted along with the other recipients that would go to a Chatham County server and stored; and that plans are to get this started soon.

Board discussion followed. Mr. Ernst suggested that Board members have the same access to the county's E-mail system that that other Chatham County employees have. Mr. Glick stated that he receives numerous E-mails that are irrelevant and he does not want to receive these in the future; and that if you need to contact him you may do so by phone. Mr. Copeland stated that he would not be responding to any more E-mails unless the county supplies him with a new computer and a set up for a separate account.

Mr. Whiteheart pointed out the following two specifics for joining the county's E-mail system:

1. you would receive everything that goes out from county business, and
2. because of security issues, you would be required to run Microsoft Outlook with certain security devices installed on your computer.

Jeffrey Starkweather, attorney, stated that it is his understanding that correspondence is public record only if it is received by a county employee.

Ms. Kost asked that Mr. Whiteheart present an update on this issue at next month's Planning Board meeting, September 4, 2007.

II. *Board of Commissioners' Meeting Update*

Indemnification: Mr. Whiteheart stated that Mr. Hinkley's motion was reviewed favorably by the Commissioners during their meeting yesterday; that Board members are now indemnified when performing site visits; that if members get into some legal trouble that is a result of the Board members negligence the insurance carriers would provide a legal defense for that Board member; that anything that is intentional, willful, or wrongful would not be covered; that the county does have the ability to cover Board members for injury as a result of negligence; that training is required such as provided employees; that certain items of clothing may be required, i.e. hard hat, orange / yellow vests; and that a waiver could be signed if there is not an interest in participating. Mr. Whiteheart stated that two policies would apply, 1.) general liability and 2.) professional mal-practice.

Site Visit Motion: Mr. Whiteheart stated that the Commissioners have not yet reviewed this motion. He stated that the Commissioners have asked that the Human Resource Department, County Manager and Assistant County Manager look at what is required for staffing, cost and etc.

Public Hearing September 10, 2007: Mr. Megginson stated that a public hearing is scheduled for Monday, September 10, 2007 at 6:00 p.m. in the District Courtroom, for zoning of the major corridors; and that the Commissioners have added the Pittsboro/Moncure Road; that a proposed text amendment to the Zoning Ordinance concerning schools (public and private), and daycares is also scheduled for this same public hearing; and that proposed language would be provided Board members.

Joint Meeting with Town of Cary: Mr. Megginson stated that a joint meeting with the Board of Commissioners and the Town of Cary is scheduled for Tuesday, September 18, 2007 at 7:00 p.m. at Cross Point Church to discuss the joint plan area (east of Jordan Lake and north of Hwy. 64). He stated that directions to the location would be provided. Ms. Kost stated that she would be unable to attend this meeting since she would be out of town. She encouraged Board members to attend if possible.

Increasing Lot Sizes: Mr. Megginson stated that lot sizes could be increased through the Subdivision Regulations (greater than what they currently are up to 10 acres) per the School of Government; that this has been discussed with the Commissioners; and that sprawl, reducing availability of lots, increasing housing cost and reducing availability of affordable housing could be considered a down side to the proposal.

Public Hearings for all Major Subdivisions in Zoned Areas: Mr. Megginson stated that Randolph County has been doing this for several years; that Moore County is considering it; that Siler City is currently using this process; and that the Commissioners are more interested in this process than increasing lot size.

Westfall: Mr. Megginson gave a brief report regarding Westfall. He stated that there are two main issues: 1.) erosion control, and 2.) placement of storm water and/or sediment basin; that Jim Willis, Chatham County Soil Erosion and Sedimentation Control Officer, gave a report on erosion control on this site during the August 6, 2007 Commissioner's meeting; that Mr. Willis (and his supervisor, Holly Coleman, Public Health Director) pointed out that he works for the Division of Environmental Health under the Public Health Department that is under the Board of Health; that this is a separate governing board; that Mr. Willis explained that structures are designed in the manual to control 75 – 80% of erosion sediment; that citizens perception is different than what the regulations allow; that the county realized that adjustments would probably be needed when the model regulations were adopted; that any necessary modifications would be a decision of the Health Director and Health Board and approved by the Sediment and Erosion Control Commission; that plans are to hire another erosion control officer this year that would allow for more field inspections; that Environmental Health received their annual audit from the State on how the program was operating; and that the State was very complimentary regarding violations that have cited, fines accessed, and field review. Mr. Megginson addressed the sediment basin off Jack Bennett Road

in the higher density part of the development. He stated that the dam spans from the developer's property to the School Board property; and that because of potential flooding the developer breached the beaver dam. Mr. Megginson used the large overview map to show the School Board easement, property lines, dam and the impoundment. He noted that sediment basins can be within a buffer area provided they are removed and then re-vegetated with woody vegetation, per State rules.

Nick Robinson, attorney, was present representing Westfall development. He stated that if the water could make its way through its original historic channel and wind its way back it would be a non issue. He noted that the reason the beaver dam was not breached in the historic channel is because it is on school property. Mr. Klarman questioned the rational for why this was done this particular way.

Allison Weakley, Chair, Chatham County Environmental Review Board, cited that our regulations state that buffers are measured from the normal elevation of an impoundment. She stated that at the time this development was approved there was a beaver impoundment that had existed on the property for several years; that she raised the issue that the buffer had not been measured properly; and that it is her guess that it was drained to address the concern; and that the buffer should now be measured from the top of the new bank.

Mr. Megginson stated that the application meets the requirements of the approved conditional use permit with or without the beaver dam.

Mr. Hinkley stated that the entire project is in violation; that the erosion is getting more severe as time passes; that in the beginning the county did not stipulate what kind of design would be best for the development, i.e. mountainous area with slopes; and that there is a disconnect with Jim Willis and the Planning staff.

B. Planning Board Member Items

There were no reports submitted.

IX. ADJOURNMENT: The meeting adjourned at 10:20 p.m.

Chris Walker, Chair

Date

Attest: _____
Kay Everage, Clerk to the Board

Date