



## Chatham County Planning Board Approved Minutes March 6, 2018

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:

Carolina Siverson, Chair  
George Lucier, Vice-Chair  
Bill Arthur  
Tony Gaeta  
Allison Weakley  
Gene Galin  
Clyde Frazier  
Emily Moose  
Jamie Hager

Absent:

Brian Bock  
Jon Spoon

Other: None

Planning Department:

Jason Sullivan, Planning Director  
Lynn Richardson, Land Planner II/Subdivision Administrator  
Kimberly Tyson, Land Use Administrator I  
Dylan Paul, Planner II  
Janie Phelps, Zoning Official  
Angela Birchett, Zoning Supervisor  
Paula Phillips, Clerk to the Board

- 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 Siverson called the meeting to order at 6:30 p.m.
- III. DETERMINATION OF QUORUM:  
Chair Siverson stated there is a quorum (9 members were present and 2 absent)
- IV. APPROVAL OF AGENDA:  
Approval of the Agenda
- V. APPROVAL OF THE MINUTES: Chair Siverson asked for consideration of a request for approval of the February 6, 2018 minutes with the 3 proposed

changes. There were no objections by board members and the February 6, 2018 minutes were approved

VI. PUBLIC INPUT SESSION:

*Input from citizens was related to Briar Chapel Phase 12, at this time the plan has not been submitted.*

Ms. Jan Hutton of 120 Willow Way, Chapel Hill spoke and provided a handout with concerns about the proposed connection to through traffic from Briar Chapel. The handout will be posted on the Planning Departments website. Some of the concerns are noted below.

- Construction traffic
- There are other viable options that don't include connection Half Dollar Rd
- Traffic shortcut to and from Briar Chapel
- As private citizens they believe they count in equal measure
- Pastoral living with clear views of the nighttime sky
- There is currently minimal traffic noise in the neighborhood
- Narrow roads in their neighborhood with children walking, biking and jogging
- Currently a state road with no sidewalks
- Egress plan shows 5 entrance points onto Half Dollar Rd

Ms. Toni Goodyear of 40 Rocky Knolls, Chapel Hill spoke and provided a handout with concerns about the proposed connection and through traffic from Briar Chapel. The handout will be posted on the Planning Departments website. Some of the concerns are noted below.

- Increased volume of traffic through the streets
- Strike a balance and protect the integrity of traditional Chatham neighborhoods, and supporting a reasonable progress
- During research it was found that the Planning Board in 2005 was against channeling traffic from Briar Chapel onto Half Dollar Rd
- There are other options for routing Briar Chapel traffic
- Preserve their neighborhood

VII. SUBDIVISION:

1. ***Request by Warren Mitchell, P. E. on behalf of Jones Ferry Properties, LLC for subdivision First Plat review of Morgan Ridge Subdivision, consisting of 16 lots on 52.20 acres, located off Jones Ferry Road, SR-1942 (entrance in Orange County), parcel #1443.***

Ms. Tyson read the staff notes and gave background for the Final Plat from the previous month's meeting. She gave an update on the concerns identified at the February 6, 2018 meeting regarding Ms. Kirkley's well. Chatham County requires 100' separation between a well and septic system unless there is a fixed lot condition. Ms. Tyson stated that the original soils map provided by Central Carolina Soil Consulting, did not show the location of the Kirkley's well. Central Carolina Soil Consulting provided a revised map that was reviewed by Mr. Boyce, Chatham County Soil Scientist. It was determined that the proposed septic layout now meets the 100' setback to the neighboring well. Ms. Tyson also reported that Ms. Kirkley applied to Chatham County Environmental Health for a lot evaluation to determine if there were any suitable soils to replace or repair their existing septic system. Mr. James Tiger visited the property and found an area of

suitable soils for replacement or repair and stated that the location of the suitable soils would not require the Kirkley's existing well to be relocated. Mr. Tiger issued an improvement permit for the property.

Mr. Mitchell was available to answer questions by the board. Ms. Kirkley was also present and available. Chair Siverson and other board members asked Ms. Kirkley if she was okay with the outcome. She responded yes and talked about the measurements she had taken from the fence line. Ms. Kirkley said that their septic system is 37-38 years old and systems are estimated to last 35 years. Mrs. Kirkley stated that she measured the distance from her well to the property line and that she thinks it is less than the 75 feet as previously thought. Mr. Mitchell said that the distance is 100' when he measured from her well to the flag where the lines start.

Board discussion followed and some points of discussion followed:

- Before the 5 off-site septic permits are issued by Environmental Health, is there a requirement to maintain the 100 foot separation from the Kirkley's well? Ms. Richardson stated yes. The Kirkley's well location will be taken into consideration prior to issuance of any septic permits in Morgan Ridge and the 100 foot separation is a requirement.
- Why did the consultant not identify better soils? Ms. Richardson said they do not have an answer to that, but Mr. Tiger would not approve the soil area if there were any issues.
- Was Ms. Kirkley's system failing? Per Mr. Tiger, there was no evidence of the existing septic system failing.

Mr. Gaeta made a motion to approve the request with the 5 conditions; seconded by Vice-Chair Lucier. Ms. Weakley requested that a modification be made to condition 4 to state that the Construction and Final plats show feature W2 identified on the S&EC map, as an intermittent stream with a 50 foot riparian buffer per side. The feature was upgraded from ephemeral to intermittent by the USACE. Staff acknowledged the change.

Mr. Sullivan said that the Riparian Buffer letter has already been revised based on the determined by the Corp of Engineer.

Motion passed 8 to 1, Ms. Weakley against

***2. Request by F-L Legacy Owner, LLC for subdivision Preliminary Plat approval of The Legacy at Jordan Lake – Phase 5A3, consisting of 17 lots on 9.36 acres, located off SR-1716, Big Woods Road, parcel #17378.***

Ms. Richardson presented the staff notes. The owner provided an update to the Conditional Use Permit conditions of approval. She reported that the stormwater plan for Phase 5A3 was submitted to Brian Burkhart, PE, Chatham County Environmental Quality Director for review. Per Mr. Burkhart, "Based on the

information submitted, the existing pond is sufficiently sized to treat the stormwater runoff from Phase 5A3 based on the ½” storm.” Ms. Richardson reported that the following 2 conditions must be met, (1). The final plat shall better illustrate Phase 5A3’s proximity to the overall boundary and the conservation area along Parker’s Creek and any other adjacent conservation area. (2) The Certificate of Water Easement on Sheet 1 be corrected to state the correct road name, Hidden Bluff Drive.

Prior to the board discussion, adjacent property owner Mr. Raymond requested to give a power point presentation to address his concerns. He had spoken to Ms. Richardson earlier in the day to express his concerns with this request. The presentation will be posted on the Planning Board website.

Below are some of Mr. Raymond’s points and concerns:

- They received the adjacent property letter about the request and were blown away by this.
- Concerns about light, noise, water and pollution and property values.
- In 2005 they were approached by the developers, Homestead at that time, and were told they would be good neighbors and if there were any concerns to contact them.
- In 2010 Legacy took over and they got into areas with development that he was surprised to see.
- In 2012 he spoke with Legacy representatives regarding his concerns with density and then in 2017 they got the letter about the CUP.
- Feelings that he has been sandbagged by this and taken advantage of
- Their expectation was it would not be so dense and it would be environmentally safe.
- The Legacy project is always asking for expansions and encroachments.
- The proposed density is a disservice.
- The 2017 revised master plan showed 5 house adjacent to their property line , now there are 8 houses tightly packed.
- Concern regarding stormwater runoff.
- The GIS map shows that it feeds into Parkers Creek one of the cleanest bodies of water.
- Lots of impervious surfaces, homes require retaining walls.
- Less than 100’ from the proposed buffer from the 2 streams that come into one at Parkers Creek.
- Requests that the number of homes be reduce from 8 to 3.
- Encroachment on the watershed.
- Request expansion of the buffer to 100’ at their property and 150’ to Parkers Creek and other creeks that come into that area
- Would like to see the dark sky imitative used

Mr. Raymond is requesting there be a delay in this approval and to provide a better explanation on the impact of environmental issues. He stated that the Planning Board is the community’s voice and not the developer’s voice.

Vice-Chair Lucier said that in 2004 he was the chair and in 2005 the planning board voted against the development, a 7 to 3 vote. He also said that he wrote a majority report, not a minority report and that the reasons are similar to what Mr. Raymond just articulated. There were great concerns about the runoff into Jordan Lake. Vice-Chair Lucier said that the Board of Commissioner did not take the recommendation by the Planning Board and approved the development. The developers have done a couple of things to improve the development, one is that they added a 100' buffer and not 50' along the perennial streams which was required at the time the development was approved. He also reported that the developer actually reduced the number of houses by 20-25. Vice-Chair Lucier said that the developer has to adhere to the Master Plan and that the request this evening is for the Preliminary Plat based on the 2017 CUP revised Master Plan.

Mr. Ashness stated that he appreciated Mr. Raymond's concerns. He said there was a public notification sent and he passed out the plan that was approved in 2017. He said that the 2014 plan had a lot of homes in the area and that went through a Public Hearing phase. He said that this is the only project he has worked on that they actually added land and did not add lots.

Mr. Ashness added that totally independent of Mr. Raymond's concerns, the developer had decided to reduce the total length of the roadway and eliminate a couple of lots due to some construction issues and that he had spoken to Lynn about this that day. He showed the Board a revised plan. Mr. Ashness stated that as they were beginning to grade the site to do construction, it made more sense to build on the opposite side of the retaining wall. This will also shorten the road by 100' and remove 2 lots from the layout. Some of the board members told Mr. Ashness that the overlay he is just now showing them does not match the map in the request. Mr. Ashness stated that the modification addresses the issue that Mr. Raymond has concerns about. Mr. Ashness said that Ms. Richardson had contacted him this afternoon to say that Mr. Raymond has these concerns. Mr. Ashness stated that the revised plan that he was showing the Board tonight is not changing the alignment of the road and the position is the same.

Board discussion followed and some items discussed were as follows:

Chair Siverson said that under the circumstances tonight they are not comfortable with approving the request. That you are asking the board to approve one thing and showing us another map of something different that you are building.

- Request by some board members to table the request until the developer can come back with a new version of the map since the lots and the road are being reconfigured.
- Reconfiguring lots requires planning board consideration
- The board wanted to see more detail on where the open/conservation space was and wanted the riparian buffers labeled along Parker's Creek. The Board wanted to know if the riparian buffer along Parker's Creek was a separate conservation area.
- Add perimeter buffer
- Show all features on your overall map
- Stay within permitted regulations

- Resubmit any new permits with revised map
- Adjacent property owners have rights like the developer
- The board could disapprove because of infringing the rights of neighbors
- The board does not stop progress that is reasonable
- Show Parkers Creek with 100' buffer top of bank and stormwater pond
- Big Woods Road area is so important regionally for wild habitat and water quality, all run off goes to Parkers Creek recreation area from the lake and the Big Woods wilderness natural area which is not recommended by the state.

Mr. Sullivan said that the developer runs a risk in having a preliminary plat approved and then making changes to the plan that are not reviewed and approved by the Planning Board and Commissioners prior to submittal of a final plat for approval since the changes made may not be approved by the Board.

Mr. Sullivan requested that with the revised map submittal, that the developer provide confirmation from all permitting agencies that a new permit is not required due to the modification or to provide a revised permit to bring back to next month's Planning Board meeting. Mr. Ashness is willing to provide a revised plat and he understands the Board has not had time to review the proposed changes.

Motion was made by Ms. Weakley; seconded by Mr. Galin to table the request.

Motion passed unanimously

**3. Request by Kirk Metty on behalf of Lewis Metty Development Co. for subdivision Final Plat approval of Cedar Mountain, Phase 3C, consisting of 12 lots on 28.050 acres, located off SR-1540, Jones Ferry Rd, Cedar Grove Rd., and Cedar Mountain Rd, parcel #1611 and #1721.**

Ms. Tyson read from the staff notes, she indicated that during the February 14, 2018 Technical Review Committee meeting that John Strowd, North Chatham Fire Chief, stated that the only water point close to the subdivision is a mile away; that all septic improvement permits had been issued; and that approval of this phase completed the subdivision. The Planning Department recommends granting final plat approval of Phase 3C with the 4 conditions on the staff notes. The developer, Mr. Metty, was available to answer questions.

Board discussion followed and some items discussed were as follows:

- Where is the inset on the map showing the off-site septic areas and where are the off-site systems in relation to Phase 3? It's on the first sheet.
- Lot 12 is going to the septic area to the far left, 51, 52 and 53 to the right, they cross and it does not make sense. Mr. Metty stated that the off-site area for Lot 12 was a left over site from a previous phase and he wanted to utilize it in Phase 3C.
- Not happy about the offsite septic
- Buffer note on sheet 1 of 1 at the top with Mr. Van Finch's name will be removed

Motion made by Vice-Chair Lucier; seconded by Mr. Galin.

Motion passed 8 to 1

Ms. Weakley voted against and said for the record that she opposed approval of Morgan Ridge and Cedar Ridge because of the satellite septic lots that can be problematic.

#### VIII ZONING AND TEXT AMMENDMENTS:

1. *A Legislative public hearing request by O'Mara Landscaping & Lawncare, Inc. to rezone 10 acres of the 31.89 acre tract from R-1 Residential to CD-CB Conditional District Community Business, identified as Parcel 2691, located at 4590 Mann's Chapel Road, Baldwin Township for a landscaping and lawn care contractor's business.*

Ms. Birchett read from the staff notes and she said that there was a Public Hearing held. Mr. Keith Shaw, Kevin Frazier and the O'Mara's are present to answer questions. This property is zoned R 1 and in 1992 a CUP was approved for a sheet music publishing company. There was a community meeting held on Dec 15<sup>th</sup> and 13 residents attended. The applicant currently runs his business out of Durham, they plan on moving onto the property as their primary residence and running the business from the property. The business will employ about 30 people and no work on Sundays. There has not been a traffic analysis done and there were concerns by a resident about the amount of the number of trucks and equipment coming from the site. There was a question about whether or not there would be any issues with the NCDOT and issuing permits for two driveways as noted on the site plan. Ms. Birchett said that she did receive email correspondence from Justin Richardson responding to that question about making the two driveways commercial. His response was, he did not see any major issues with the proposed site, he did indicate that numbers would have to be run again and to check the site distance to verify that road improvements were not warranted.

Mr. Shaw spoke to the board and said that it was important to see the context of the area. They prepared a document to respond to the document received by planning staff and have prepared a response to those and the Plan Chatham document, a handout was provided. Below are some points described in that document and the presentation?

- The area is primarily a rural area and is not compact based on how it is laid out
- Across the street from the property is a residential area that is rural, in the master plan based on how the lines are drawn the property is in a compact residential
- Making the environment more beautiful and healthy
- They are at a wall with DOT because they can't proceed until the O'Mara's purchase and own the property

- The O'Maras want to come here because it would allow them to have their residence there and it already has 2 buildings they can do some small renovations on
- The business market for what they do is primarily residential and there are lots of new residential developments in Chatham County
- They are interested in training staff and provide seminars for others interested in lawncare
- Increased employment opportunities within the county
- Commercial, civic and residential uses that add to Chatham County's tax base
- Help residents to meet their daily needs and preserve Chatham County's small town atmosphere
- Amend the County's land development regulations to facilitate a broader mix of uses
- The proposed usage will no more impact the traffic than would a community developed within the R-1 zoning
- The need for quality landscaping with the growth in residential and commercial properties in Chatham County
- CDRB is also a designation, the landscaping could be in that, any approval for this use would be good and the O'Maras would be fine with that
- Positive economic impact to the community
- Key factor, they are not building any more structures, they are using the existing buildings only

Board discussion followed and some items discussed were as follows:

- Concerns with the number of parking spaces 84 which is a lot for compact residential
- Traffic is a big concern on Manns Chapel
- Would like to see the traffic analysis
- This area is a compact residential area not subject to CCO. Does the existing CUP cover all 31 acres? No, just the 2 acre area. What else besides landscaping could go in there? No other business. The 31 acres are residential.
- Concern with what may happen on back 20 acres
- The new plan for compact residential is a straight forward description you have to make the 5 findings
- With the additional information provided in the last day or two it makes sense for planning to revisit the request, we have up to 3 months to make a decision
- Does conflict with the COMP Plan but hope we can work something out
- What becomes of the other 20 acres? The O'Mara's said that they will leave it natural. Ms. Birchett said if you were to subdivide there would be issues with the impervious surface and it would shrink the proposed site down considerably
- Would this be permitted in a rural designation?



- Hopeful we can work with the O'Maras and this business.
- Would retail be concluded? Ms. Birchett said yes, that is stated on the contract
- Are there other options as this may not be the best fit.

One board member said that with great respect and professionalism of the planning staff, 3 out of the 5 rejected. As a matter of fairness, after hearing the applicants presentation, he would request that we table this item and that the staff and applicant get together with the information that has been provided and points raised that are worthy to look at this again.

Mr. Sullivan indicated that they are asking for one specific use and in the future it could be modified so that is what is driving the commercial comment. Mr. Sullivan said that the rural and agriculture areas do mention having greater flexibility.

Vice-Chair Lucier agrees this is the first test of the COMP Plan and he is reluctant to go against it. As stated from another board member it is a desirable business. Mr. Sullivan said tonight was the first time the Planning Board was Introduced to the O'Mara's holding seminars idea. Staff had not been made aware of this additional use.

Chair Siverson said this is a Conditional District and we can add conditions and there may be some flexibility. She also asked how a Compact Residential area differs from a traditional subdivision. Ms. Birchett said that piece will be better defined as the UDO process get underway and adopted.

Mr. Sullivan reported that the CCO does not have a minimum acreage requirement. He also added that staff sat down to review the application and they struggled with the same things the board members are.

Motion made by Mr. Gaeta to table and to meet with the staff and reconsider with the additional information; seconded by Mr. Galin.

Ms. Weakley said it is straight forward what is allowed in that area and you must meet the 5 findings. She supported staff's recommendations.

Chair Sieverson's question of concern was would we rather see a housing development on the property and what kind of impact would that have?

Ms. Birchett reported that we are guided by the documents we are given, there are 3 ways the decision can be made with respect to the COMP Plan; approve consistent with the plan, not approved not consistent with the Plan, approve and it is not consistent with the Plan but that would create an automatic amendment to the COMP Plan map.

Motion to table request passed unanimously

**2. A Legislative Public Hearing request by the Chatham County Board of Commissioners to adopt revisions to the Chatham County Zoning Ordinance to reflect recent legislative changes and recommendations by Planning Staff**

Mr. Dylan Paul read from the staff notes and gave a power point presentation to cover the highlights.

Board discussion followed and some points discussed were as follows:

- Statutes are interpreted differently and a lawyer helps to interpret and it builds a body of law
- The zoning map will change and it will not match the plan
- The UDO will help flush out some issues
- Concerns with building code issues for the various venues that take place on farms
- Concerns with riparian buffers, erosion control, with the new definition of Agriculture
- If Legislative changes the law why do we have to

Motion made by Vice-Chair Lucier to approve the consistency statements; seconded by Mr. Gaeta.

Motion passed unanimously

Motion made by Mr. Gaeta to approve the request with the proposed changes noted in Mr. Paul's presentation; seconded by Ms. Moose.

Motion passed unanimously

**3. *A Legislative Public Hearing request by the Chatham County Board of Commissioners to adopt revisions to the Chatham County Subdivision Regulations to reflect recent legislative changes and recommendations by Planning Staff***

Mr. Dylan Paul read from the staff notes and gave a power point presentation to cover the highlights. Board discussion followed and some points discussed are as follows:

- Environmental Impact needs to say "Assessments"
- Has the acreage going from 2 to 10 been challenged?
- Can be more restrictive than state law on these topics and keep at 2 acres? Mr. Sullivan said no, we could not.
- Whether it could be limited to direct impacts or indirect and cumulative impacts

Motion made by Ms. Weakley to table the subdivision item and to reconfirm with the attorney whether or not we have to do this; second by Vice-Chair Lucier



Paula Phillips, Clerk to the Board

Date