

MINUTES
CHATHAM COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING
OCTOBER 15, 2007

The Board of Commissioners ("the Board") of the County of Chatham, North Carolina, met in the District Courtroom, 12 East Street, located in Pittsboro, North Carolina, at 6:00 PM on October 15, 2007.

Present: Chairman Carl Thompson; Vice Chair, George Lucier; Commissioners Mike Cross and Tom Vanderbeck; County Manager, Charlie Horne; County Attorney, Kevin Whiteheart; and Clerk to the Board, Sandra B. Sublett

Absent: Commissioner Patrick Barnes

INVOCATION AND PLEDGE OF ALLEGIANCE

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

CALL TO ORDER

The meeting was called to order by the Chairman at 6:01 PM.

APPROVAL OF AGENDA AND CONSENT AGENDA

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

Commissioner Vanderbeck asked that Item #13, Consideration of a request by David Ferrell, Village Investments, Inc. for subdivision preliminary approval of NC #751 Parcels, consisting of 11 lots on 47 acres, located off NC Highway #751, Williams Township; and Item #14, Consideration of a request by Dan Sullivan on behalf of Contentnea Creek Company for subdivision preliminary approval of "Pennington South Subdivision", consisting of 50 lots on 68 acres, located off Highway #64 East, New Hope Township be removed from the Consent Agenda and placed on the Regular Agenda for discussion.

Commissioner Lucier moved, seconded by Commissioner Vanderbeck, to approve the Agenda and Consent Agenda with the noted requests.

APPROVAL OF AGENDA CONSENT AGENDA

1. **Minutes:** Consideration of a request for approval of Board Minutes for regular meeting held October 01, 2007, Work Session held October 01, 2007, and Zoning Public Hearing held September 25, 2007

The motion carried four (4) to zero (0).

2. **Telephone System Approval:** Consideration of a request to approve a telephone system for the main County office complex in Pittsboro to Black Box Network Services in the amount of \$222,600.00

The motion carried four (4) to zero (0).

3. **Road Names:** Consideration of a request from citizens for the naming of a private road in Chatham County as follows: Big Sky Road

The motion carried four (4) to zero (0).

4. **2008 Board of Commissioners' Calendar:** Consideration of a request to adopt Resolution #2007-39 Setting the Time and Place of Its Regular Meetings for the

Chatham County Board of Commissioners for Calendar Year 2008, attached hereto and by reference made a part hereof.

The motion carried four (4) to zero (0).

5. **Funds Acceptance for Health Department:** Consideration of a request to accept funds in the amount of \$4,494 awarded to the Chatham County Health Department

The motion carried four (4) to zero (0).

6. **Funds Acceptance for Health Department:** Consideration of a request to accept funds in the amount of \$15,000 awarded to the Chatham County Health Department in recurring additional general aid-to-county funds

The motion carried four (4) to zero (0).

7. **Funds Acceptance for Health Department:** Consideration of a request to accept funds in the amount of \$450 awarded to the Chatham County Health Department

The motion carried four (4) to zero (0).

8. **Funds Acceptance for Health Department:** Consideration of a request to accept funds in the amount of \$1,354 awarded to the Chatham County Health Department

The motion carried four (4) to zero (0).

9. **Flu Vaccination Rate Change:** Consideration of a request to notify the Board of Commissioners of changes in flu vaccination fee rates to \$25.00

The motion carried four (4) to zero (0).

10. **Final Plat Approval of "The Estates at Laurel Ridge, Phase 1A":** Consideration of a request by Community Properties, Inc. on behalf of Chatham Partners, LLC and Roanoke Investments, LLC for subdivision final plat approval of "The Estates at Laurel Ridge, Phase 1A" (fka Creekside Subdivision), consisting of 18 lots on 94 acres, located off SR #1520, Old Graham Road, Hadley Township

As per the Planning Department and Planning Board recommendation (by a unanimous vote), final plat approval was granted with the following conditions:

1. Note F on the Mylar copy of the plat be changed to state that the roads are public.
2. Note S on the Mylar copy of the plat be changed to state that the flood information is taken from FEMA panels dated February 2, 2007
3. The final plat not be recorded until the County approved financial guarantee is executed.

The motion carried four (4) to zero (0).

11. **Final Plat Approval of "Briar Chapel, Phase 4, Section 2":** Consideration of a request by Joe Grady, Jr., PLS on behalf of NNP Briar Chapel, LLC for subdivision final plat approval of "Briar Chapel, Phase 4, Section 2", consisting of 120 lots on 35 acres, located off SR #1532, Mann's Chapel Road and US Highway #15-501 North

As per the Planning Department and Planning Board recommendation (by a unanimous vote), final approval of "Briar Chapel, Phase 4, Section 2" was granted with the following two (2) conditions:

1. The final plat not be recorded until the County-approved form of the financial guarantee is executed.

2. The final plat not be recorded until staff has received verification that Great Ridge Parkway is accessible to emergency vehicles, i.e. culverts have been installed and roadway is graveled.

The motion carried four (4) to zero (0).

12. **Preliminary Plat Approval of "Horizon":** Consideration of a request by Coffey Grounds of Chapel Hill, Inc. for subdivision preliminary approval of "Horizon", consisting of 62 lots on 103 acres, located off SR #1525, Hamlets Chapel Road, Baldwin Township

As per the Planning Department and Planning Board recommendation (by a unanimous vote), approval of the road names "Horizon Drive", "Coley Court", and "Brookhaven Way" and preliminary plat approval were granted with the following two (2) conditions:

1. No work is to commence in the Phase II area until the required erosion control modifications have been met and approved by Chatham County Erosion Control.
2. A determination shall be made in regard to a joint entrance between Horizon Subdivision and Buck Branch property owners and shown on the final plat with legal documentation provided regarding the abandonment of that specific portion of the easement.

The motion carried four (4) to zero (0).

- ~~13. **Preliminary Plat Approval of "NC #751 Parcels":** Consideration of a request by David Ferrell, Village Investments, Inc. for subdivision preliminary approval of NC #751 Parcels, consisting of 11 lots on 47 acres, located off NC Highway #751, Williams Township~~

This item was removed from the Consent Agenda and placed on the Regular Agenda for discussion.

- ~~14. **Preliminary Plat Approval of "Pennington South Subdivision":** Consideration of a request by Dan Sullivan on behalf of Contentnea Creek Company for subdivision preliminary approval of "Pennington South Subdivision", consisting of 50 lots on 68 acres, located off Highway #64 East, New Hope Township~~

This item was removed from the Consent Agenda and placed on the Regular Agenda for discussion.

15. **Resolution Allowing Mobile Home to be Sold at Public Auction and Amending Prior Resolution of April 16, 2007 Calling for a Public Sale with Sealed Bids:** Consideration of a request to adopt **Resolution #2007-40 Allowing Mobile Home to be Sold at Public Auction and Amending Prior Resolution of April 16, 2007 Calling for a Public Sale with Sealed Bids**, attached hereto and by reference made a part hereof.

The motion carried four (4) to zero (0).

16. **Chatham Transit Board Appointment:** Consideration of a request to appoint Gary W. Cox, 883 St. Luke Church Road, Goldston, NC, as a full Board appointment, to the Chatham Transit Board

The motion carried four (4) to zero (0).

END OF CONSENT AGENDA

PUBLIC INPUT SESSION

There was no one present who wished to speak.

BOARD OF COMMISSIONERS MATTERS

Tax Administrator Appointment: Consideration of a request to appoint a Chatham County Tax Administrator

The County Manager stated that he was pleased to make the recommendation that Tina Stone be appointed as the Chatham County Tax Administrator. He explained that Ms. Stone had been with the County for over eighteen years and had performed various jobs in the Tax Department; that she was well-qualified and well-trained; and that he was pleased to recommend her for this office.

Commissioner Lucier moved, seconded by Commissioner Cross, to appoint Tina Stone as the Chatham County Tax Administrator. The motion carried four (4) to zero (0).

PLANNING AND ZONING

Preliminary Plat Approval of "NC #751 Parcels": Consideration of a request by David Ferrell, Village Investments, Inc. for subdivision preliminary approval of NC #751 Parcels, consisting of 11 lots on 47 acres, located off NC Highway #751, Williams Township

Commissioner Vanderbeck asked questions regarding preliminary approval of NC #751 Parcels.

The Planning Director explained that the Board of County Commissioners approved the sketch design plan on September 18, 2006 consisting of 14 lots on 66 acres; that the developer has changed the development name to "**Lexington Subdivision**"; that the new name will be shown on the final plat; that the preliminary request before the Board is for Phase One of the project consisting of 11 subdivision lots and one (1) exempt, over 10 acre size lot, Lot # 12; and that per Mark Ashness, CE Group, it is estimated that Phase Two consisting of three (3) lots will be submitted within two (2) years or sooner depending on market conditions.

He stated that other agency approvals as required by the Chatham County Subdivision Regulations for preliminary plat approval have been received as follows:

CHATHAM COUNTY	Erosion Control Permit Phase One	Aug. 29, 2007
NCDOT	Commercial Driveway Permit	Aug. 04, 2007
NCDOT	Road Plan Approval Phase One	Aug. 10, 2007

He stated that lots will be served by private wells and individual on-site wastewater systems; that a copy of the soil reports and maps prepared by Soil & Environmental Consultants, PA, has been provided to Thomas Boyce, Chatham County Environmental Health Specialist, for review; that Mr. Boyce has found the reports and maps to be adequate for preliminary review; that a copy of the reports and maps can be found on the Planning Department section of the County web site; that prior to final plat submittal, a lot by lot review will be performed by a Chatham County Environmental Health Specialist; that based on this on-site review, some revisions to lot lines may be required and/or lots may be eliminated; that a perennial stream and a pond are located on the property; that the lot the pond is located on, Lot # 12, is exempt from subdivision review based on size; that a fifty foot wide water hazard setback is shown along both sides of the stream and around the pond; that the staff recommends the language be changed to read 50' wide water hazard setback / vegetative stream buffer on the final plat; that the Chatham County Emergency Operations Office has approved the road names 'Lexington Drive' and 'Independence Court'; that the road names appearing on the preliminary plat "Spruce Drive" and "Nandina Court" are not the correct road names; that a fifty foot wide perimeter buffer has been designated by the developer along the boundary of the development; and that the standard zoning setback from side and rear property lines is 25 feet.

Mr. Megginson stated that there were two conditions of sketch design as follows:

1. A note shall be placed on the preliminary and final maps stating that Lot # 1 shall be accessed by the internal roadway only. *This condition has been met. See note # 11 on preliminary plat.*
2. The developer shall consider the future widening of NC #751 by NCDOT to a four-lane facility, specifically as it relates to placement of structures, waste water systems, repair areas and wells on Lots 1 and 12 prior to preliminary plat submittal. *This condition has been met. See note # 12 on preliminary plat. Soil area location for Lot # 1, to accommodate the wastewater system, is shown away from Hwy 751. The soil area for Lot 12 is outside the 50 foot setback from the edge of the right-of-way of Hwy 751. Lot # 12 is exempt from subdivision review based on size.*

Mark Ashness, CE Group, stated that there were three more lots in the actual sketch design plan at the back of the subdivision; that the David Farrel family, has owned the property on which the lots are not being shown for over seventy years; that they didn't have direct access out; that they purchased this property; that they are approximately five acres in size; that they said that they didn't know what they wanted to do with the back of the property but they knew that they wanted to proceed with the front of the property as shown; that they decided to just leave off the back; that there is not ulterior motive; that they have owned the land for a long time and are now able to have a State road connect to it; and that there is a good size draw to the east of it.

Commissioner Vanderbeck stated that he was looking for clarification since the lots were pictured originally in sketch design.

Mr. Farrel stated that they have no plans for the back piece of land; that it was his grandmother's place; that they knew from the start that they had limited access; and that if they want to do anything with it in the future, they will still have the option without cutting themselves off.

Mr. Ashness stated that there was approximately twenty acres in the back section; that if that was divided by three, there would be six and seven acre lots; and that even if the zoning was changed, the lots would still conform to what the Board has been considering in that area.

Commissioner Vanderbeck asked since lot #12 was over ten acres if it would be allowed to subdivided in the future.

Mr. Ashness replied that it was not; that it was in the restricted covenant; that one of the main reasons it was added, there is a good size pond on it and they left it that size to allow that particular lot some flexibility in siting a driveway and access; that it would be subject to the same covenant so it would not be able to be subdivided.

As per the Planning Department and Planning Board recommendation (by a unanimous vote), Commissioner Lucier moved, seconded by Commissioner Vanderbeck, to grant approval of the road names "Lexington Drive" and "Independence Court" and grant approval of the preliminary plat with the following condition:

1. Language on the final plat shall be changed to read "50' wide per side water hazard setback/vegetative stream buffer."

The motion carried four (4) to zero (0).

Preliminary Plat Approval of "Pennington South Subdivision": Consideration of a request by Dan Sullivan on behalf of Contentnea Creek Company for subdivision preliminary approval of "Pennington South Subdivision", consisting of 50 lots on 68 acres, located off Highway #64 East, New Hope Township

Commissioner Vanderbeck asked for clarification on the buffers and easements.

The Planning Director explained that one perennial stream (feature 'A' *as designated on Surface waters and wetland map prepared by Burdette Land Consulting, Inc.*) is also designated on the USGS Topo map; that a 50 foot per side water hazard setback/vegetative stream buffer has been shown along this stream; that an on-site stream and wetland

delineation, conducted by Jennifer A. Burdette, Burdette Land Consulting, Inc., on July 12, 2006 identified an additional intermittent stream, (feature 'D') along with a jurisdictional wetland, (feature 'C'); that a copy of the report dated July 20, 2006 along with maps showing identified features can be viewed on the Planning Department web site; that the preliminary plat shows the intermittent stream, within Lots 20 and 21, with a 50 foot per side water hazard setback/vegetative stream buffer; that the linear wetland has been shown within Lot 48 along with a 20 foot wide public drainage easement; that an intermittent stream (feature 'B') was identified on the adjacent property of Robert Gunn; that the required 50 foot buffer along this stream may extend onto the subject property; that this will be evaluated prior to final plat submittal and, if the buffer affects the subject property, it will be shown on the final plat; that a discussion by the Planning Board followed regarding buffering of ephemeral channels identified on site by Jennifer Burdette; that John Harris, Engineer, stated that the developer will provide 20 foot wide drainage easements along these channels, specifically within Lots 23 and 24 and Lots 11 and 12; that per John Harris, P. E., all lots have a minimum useable lot area of 40,000 square feet outside state road right-of-ways and stream buffers; that another issue of concern expressed by Planning Board was whether Lots 35 and 36 should share a common driveway, thereby, creating only one (1) creek crossing to access potential house sites; that Mr. Harris stated that the developer will consider providing a shared driveway, if both house sites are across the creek; that it is possible that the house site for Lot # 36 will be on the north side of the creek, near the road, and not require a driveway crossing of the creek; that this will be determined, after the wastewater system location has been approved by Chatham County Environmental Health; that the property is wooded with slopes that range from 6% to 38% with an average slope of 8.5%; that lots with the steeper slopes, #'s 19, 20, 21 have off-site septic areas; and that a map showing slopes can be viewed on the Planning Department web site.

Mr. Megginson stated that the Chatham County Emergency Operations office has approved the road names 'Rustic Leaves Way', 'Windswept Circle', and 'Silver Lining Lane'; and that there were two conditions of sketch design approval as follows:

1. Staff recommends utility easements be shown on the preliminary plan and final plat to provide for future looping of water lines to the west, east, and south. The width and location of said utility easements shall be as specified by the Chatham County Public Works Department. *This condition has been met.*
2. Note # 5 be changed to reflect the correct zoning. *This condition has been met.*

As per the Planning Department and Planning Board recommendation (by a unanimous vote), Commissioner Vanderbeck moved, seconded by Commissioner Lucier, to grant approval of the road names "Rustic Leaves Way", "Windswept Circle", and "Silver Lining Lane" and preliminary plat approval of "Pennington South" with the following conditions:

1. A note be placed on the final plat to read: "The North Carolina Board of Transportation has identified {Name of Facility} as a Strategic Highway Corridor. In order to protect the safety, mobility, and traffic carrying capacity of this Strategic Highway Corridor, the approved access along {Name of Facility} may be closed or relocated if an alternative access is developed in the future or if any safety concerns or other traffic impacts arise."
2. The final plat major subdivision application states the correct zoning district of RA-40.
3. Prior to final plat submittal, feature 'B' as shown on Burdette land Consulting, Inc. map dated 7/20/06 shall be evaluated and , if the buffer affects the subject property, the buffer shall be shown on the final plat.
4. The developer shall provide 20 foot wide drainage easements along the ephemeral channels identified by Jennifer Burdette's on-site review, specifically within Lots 23 and 24 and Lots 11 and 12.

5. If necessary, due to house site location on Lots 35 and 36, the developer shall consider providing a shared driveway creating one creek crossing.

The motion carried four (4) to zero (0).

Preliminary Plat Approval of "Fieldstone Subdivision": Consideration of a request by James E. Dixon for subdivision preliminary approval of "Fieldstone Subdivision", consisting of 27 lots on 43 acres, located off SR #1532, Mann's Chapel Road, Baldwin Township

Commissioner Lucier asked questions about wetlands and right-of-ways and asked if it was hydrologically connected.

Patrick Byker stated that these two lots are not hydrologically connected as determined by the Army Corps of Engineers; that they do not have a written opinion as of yet; and that they would forward it to the Planning Director when it was received.

As per the Planning Department and Planning Board recommendation (by a vote of 7-1-2), Commissioner Cross moved, seconded by Commissioner Vanderbeck, to grant approval of the road names "Fieldstone Lane", "Linda Lee Circle", "Clarence Lane", and "Runa Court" and grant the request for preliminary approval of "Fieldstone" as submitted.

Commissioner Lucier stated that when any authoritative body makes a determination such as this, he would like to see the determination and the reasons for it.

Commissioner Vanderbeck asked to amend the motion that the approval be based on getting the Army Corps of Engineers report.

Commissioner Cross agreed to the amendment.

George Retschle said that the Corps approval would be in the form of a signature on the maps. He stated that the signature was expected within the next few weeks.

The motion carried three (3) to one (1) with Commissioner Lucier opposing.

Rezoning Request by General Shale Brick, Inc.: Consideration of a request by Nicolas P. Robinson, on behalf of General Shale Brick, Inc. to rezone approximately 192.5 total acres (3 tracts) located on Moncure Flatwood Road (SR #1924), Cape Fear Township, from RA-40 Residential Agricultural to Conditional use Heavy Industrial (H-Ind.)

As per the Planning Department and Planning Board recommendation (by a unanimous vote), Commissioner Cross moved, seconded by Commissioner Lucier, to approve the rezoning request and adopt **An Ordinance Amending the Zoning Ordinance of Chatham County**, attached hereto and by reference made a part hereof. The motion carried four (4) to zero (0).

Conditional Use Heavy Industrial Request by General Shale Brick, Inc.: Consideration of a request by Nicolas P. Robinson, on behalf of General Shale Brick, Inc. for a Conditional Use Heavy Industrial (H-Ind.) Permit to all for mining and brick manufacture, on approximately 407 total acres (4 tracts and a portion of 1 tract) located on Moncure Flatwood Road (SR #1924), Cape Fear Township

Commissioner Vanderbeck asked about the Environmental Health recommendation regarding wastewater management.

The Planning Director stated that General Shale had worked out this to the Health Department's satisfaction. He further stated that the Office of State Archeology does not require a preliminary field reconnaissance; that other recommendations on other developments have been required; and that this proposal requires a survey to be done using a State-approved archeologist.

Nicholas Robinson stated that there has been a wetlands and stream delineation done at the request and expense of General Shale; that there are no intermittent or ephemeral streams but there is a drainage area on the property; that the drainage area will be buffered by 50 feet; that there will be a 6 foot buffer along the existing driveway; that there would be a 6 foot berm between other properties; and that the perimeter buffer around the residential areas is 80 feet plus the berm.

As per the Planning Department and Planning Board recommendation (by a unanimous vote), Commissioner Lucier moved, seconded by Commissioner Vanderbeck, to adopt **Resolution #2007-41 Approving the Application for a Conditional Use Permit Requested by Nicolas P. Robinson for General Shale Brick, Inc.**, attached hereto and by reference made a part hereof. The motion carried four (4) to zero (0).

MANAGER' S REPORTS

The County Manager had no reports.

COMMISSIONERS' REPORTS

MPDS Permit:

Commissioner Lucier stated that Siler City was presently seeking a MPDS Permit from the State for their wastewater treatment plant; that a stakeholders group has been established, comprised of members of the Siler City Town Council, Board of Commissioners, citizens, representatives of the Corps, County and Town Managers, and someone from the poultry industry; that that group is trying to do all it can to protect and enhance the water quality of the Rocky River and at the same time, not do anything to the detriment of the economic activity in Siler City; that it seems to him that it would be wise for the Board of Commissioners to request that the State conduct a public hearing on the MPDS Permit so that all the information can be put out on the table as to what issues need to be resolved and worked on as part of this stakeholders group; that in the spirit of making this an open and transparent activity, he would like the Board to send this request to the State; and that it would have to be in by the end of this week (October 19th).

Commissioner Lucier moved, seconded by Commissioner Vanderbeck, to request that the State hold a public hearing on the MPDS Permit for Siler City's Wastewater Treatment Plant.

Commissioner Vanderbeck added that he doesn't think anyone will disagree that the area needs some help; that the Rocky River needs some help; that there are some problems; that the stakeholders group was founded to help address these problems and find solutions to these and to work together to make these things happen taking all things into consideration; and that he thinks that this will help give the stakeholders some say if they wish to participate in this hearing; and that they can continue on to make a solution that works for all.

Chairman Thompson stated that he feels that the idea is they are going to enter into some kind of discussions, they need to have everything on the table so that all the issues can be considered; that their idea has always been, when they entered into this venture, was to offer their hand in helping in any way possible to deal with the issue; that he hopes this will help to move the process along and not hinder it; and that a stakeholders meeting will be coming up on October 22nd.

The Chairman called the question. The motion carried four (4) to zero (0).

Siler City Water:

Commissioner Lucier explained that last Tuesday, the County and Town of Siler City worked very hard to allow Siler City, particularly the chicken processing plant, to withdraw raw water out of Jordan Lake; that between Townsends and Pilgrim's Pride, there was approximately 500,000 gallons withdrawn per day; that a call was received from the chicken processing plant on Tuesday and by Friday, the County Manager and Staff and the Siler City Town Manager and Staff had managed to perform the "near impossible" in getting approval from the Army Corps of Engineers, DENR, and the Parks Department to allow trucks from

the chicken processing plants to take raw water out of the lake at the White Oak Recreation Area and haul it to the Siler City reservoir where the water could be treated and used by the chicken processing plants; and that had been cut to fifty percent usage which was a devastating economic event for them in terms of the chicken farms raising live birds, their need to be gotten to the processing plants, the people working at the chicken processing plants who would be at risk for being laid-off in addition to the overall economic activity of the County that depends on the chicken processing plant, farmers, etc.

Commissioner Lucier commended the County Manager and all involved for “doing the next to impossible” and making it happen. He stated that they were very grateful that it happened.

The County Manager expressed appreciation for the comments, stating that it takes a team effort and that the entire Board was involved.

Planning Board Appointment:

Commissioner Cross moved, seconded by Commissioner Lucier, to appoint Randall Sartwell, 131 Wildlife Road, Bear Creek, NC, to the Planning Board to replace Clyde Harris. The motion carried four (4) to zero (0).

EmPOWERment, Inc. and Chatham County Memorandum of Understanding:

Commissioner Vanderbeck moved, seconded by Commissioner Cross, to approve the amended draft of the Memorandum of Understanding between EmPOWERment, Inc. and Chatham County, attached hereto and by reference made a part hereof. The motion carried four (4) to zero (0).

ADJOURNMENT

Commissioner Vanderbeck moved, seconded by Commissioner Cross, to adjourn the regular meeting. The motion carried four (4) to zero (0), and the meeting was adjourned at 6:53 PM.

Carl E. Thompson, Sr., Chairman

ATTEST:

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