



## Chatham County Planning Board Approved Minutes July 10, 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  
Jamie Hager  
Tony Gaeta  
Brian Bock  
Gene Galin  
Clyde Frazier  
Emily Moose  
Allison Weakley

Absent:

Jon Spoon  
Bill Arthur

Planning Department:

Jason Sullivan, Planning Director  
Kimberly Tyson, Planner II/Subdivision Administrator  
Angela Birchett, Planner II/Zoning Administrator  
Paula Phillips, Land Use Administrator  
Daniel Garrett, Clerk to the Board

- I. INVOCATION AND PLEDGE OF ALLEGIANCE:  
Mr. Galin 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). Mr. Spoon and Mr. Arthur are absent.
- IV. APPROVAL OF AGENDA:  
Approval of the Agenda- Chair Siverson asked the board members if there were any issues with the Agenda. There was not and it was approved

- V. APPROVAL OF THE MINUTES: Chair Siverson asked for consideration of a request for approval of the June 5, 2018 minutes with a few minor proposed changes. There were no objections by board members and the June 5, 2018 minutes were approved.

Motion was made by Mr. Gaeta to approve; seconded by Ms. Hager.

Motion passed 8-0

Ms. Weakley stated that she did not vote on the minutes because she was absent during the June 5, 2018 Planning Board meeting.

- VI. PUBLIC INPUT SESSION: There were citizens signed up to speak on items on non-public items. Chair Siverson stated that citizens could speak after the staff notes were read and the developers spoke. See below for comments under the Zoning section.

VII. SUBDIVISION:

1. Request by Peter Bellantoni, P.E. on behalf of Ideal Capital Group, LLC for subdivision **First Plat** review of **Bonterra Subdivision**, consisting of 22 lots on 31.495 acres, located off Mann's Chapel Road, SR-1532, parcel #2532 and 2533.

Ms. Tyson gave an overview of the staff notes and she reported that the request is for First Plat review and recommendation of Bonterra Subdivision, consisting of 22 lots on 31.495 acres, located off Mann's Chapel Road, S. R. 1532. The applicant has provided a cover letter, attachment # 2, with details of the project. The road is to be built as a 50 feet wide public right-of-way, with 18 feet wide travelway, and is to be a state maintained road. A fifty foot wide right-of-way for possible future road extension is shown between Lots 12 and 13 to the adjacent property. This will be a dedication of right-of-way and the road will not be constructed by the developer of Bonterra.

She continued to report that the developer submitted the General Environmental Documentation and a letter, dated January 19, 2018 from North Carolina Department of Natural and Cultural Resources Natural Heritage Program to Chatham County Land & Water Resources Division for review. See attachments 6 & 7. The letter states "A query of the NCNHP database, based on the project area mapped with your request, indicates that there are no records for rare species, important natural communities, natural areas, or conservation/managed areas with the proposed project boundary. Please note that although there may

be no documentation of natural heritage elements within the project boundary, it does not imply or confirm their absence; the area may not have been surveyed. The results of this query should not be substituted for field surveys where suitable habitat exists.” Rachael Thorn, Environmental Quality Supervisor, reviewed and approved the information submitted.

Ms. Tyson informed that a community meeting was held on August 9, 2017 at Evergreen United Methodist Church, 11098 US Hwy 15-501N, Chapel Hill. Approximately sixteen people attended the meeting. Items/issues discussed included buffers along the creek, traffic, lighting, construction, whether the homes be on private or public water, buffers along perimeter, and what will become of the existing homes. The applicant addressed some of the concerns and explained that there will be buffers along the creek, a driveway permit must be obtained from NCDOT and that widening Mann’s Chapel wasn’t anticipated based on the traffic volume. Lighting will be along the proposed street and wouldn’t spill out to the adjoining properties. Regarding construction concerns, the applicant committed not to burn debris and anticipated construction to be an approximately two years. It was also noted that homes will be on public water. An adjacent property owner had safety concerns about an un-fenced pond and children coming onto the property; the developer cannot guarantee that someone wouldn’t cross the property line. It was also noted that the existing homes will be removed.

She continued to report that the TRC met on May 16<sup>th</sup> to review the First Plat submittal. The applicant and developer was present. Items discussed included First Plat approval time frame, cul-de-sac radius, adequate soils, current homes on parcels, no land disturbance prior to construction plan approval, financial guarantee process, including the calculation of the stream separate from the buffer, stormwater control, abandonment of wells and/or septic for existing homes, waterlines and permits will be needed to demolish the existing homes.

Ms. Tyson also stated that a soils report and map, attachment #9, was submitted to Thomas Boyce, Chatham County Environmental Health, LSS, REHS, Chatham County Environmental Health, for review. Mr. Boyce stated that the report and map were adequate for a First Plat review. Lots 20-22 are proposed for septic systems south of the creek and the three systems will be bored under the stream. The developer stated that the homeowners for Lots 20-22 we will be required to enter into a contract with a certified operator and the certified operator will be required to perform a bi-annual inspections.

Dan McCauley of Soil and Environmental Consultants, PA, submitted the Riparian Buffer Review Application along with a riparian buffer map, dated

September 11, 2017, to Drew Blake, Chatham County Environmental Quality Inspector for review. Mr. Blake and Mr. McCauley completed an on-site riparian buffer review on October 13, 2017 to verify the consultant's findings. Mr. Blake issued a confirmation letter of his findings dated October 13, 2017.

She continued to say that Mr. Blake was provided a copy of the US Army Corps of Engineers Approved Jurisdictional Determination dated April 18, 2018. Section S03 through section S04, shown on the buffer map dated October 26, 2017, as an ephemeral, was upgraded to a perennial by the approved JD. Mr. Blake didn't revised his original confirmation letter because the buffer didn't exceed the perennial buffer shown on the buffer map. The October 13, 2017 letter states that there are one (1) intermittent stream, one (1) perennial stream, and one (1) wetland. Buffer authorizations and 404/401 permits will be obtained prior to Construction Plan submittal. Mr. Blake reviewed an earlier version of the plat and stated the roadway needed to be a minimum of 50 feet from the intermittent stream. The roadway alignment was shifted 50 feet from the intermittent buffer.

Ms. Tyson explained a stormwater device is proposed and will be placed on private Lots 11 and 12. The developer is proposing to utilize the 10 Percent Rule provided in the County Stormwater Ordinance for areas that do not drain to the stormwater device. As part of the stormwater permitting process additional information will be provided to the Environmental Quality Department for the 10 Percent Option. If the criteria for the 10 Percent Rule is not met then additional stormwater devices would be required and shown as part of the Construction Plan application submittal. A stormwater Permit and an Erosion Control Permit will be obtained from Chatham County Environmental Quality prior to Construction Plan submittal. No work can commence on the property prior to obtaining Construction Plan approval.

She said that site visits were scheduled for May 15 and 23, 2018 for Planning Department staff and various Board members to attend. Peter Bellantoni, P.E. was present to walk the property with staff and Board members and discuss the project. Pictures of the site visit can be viewed on the Planning Department webpage.

Ms. Tyson continued stating that the Plan Chatham was adopted by the Board of Commissioners in November 2017 and is a comprehensive plan that provides strategic direction to address the most pressing needs in the county. This property is located in an area of the county identified as Compact Residential in the Conservation on the Future Land Use and Conservation Plan Map. The description for Compact Residential includes development that is mix use of

single family and/or multifamily units, community centers, recreational uses, amenities, churches, and schools complemented by a variety of open spaces.

Although the proposed subdivision is not a compact residential design it meets the adopted riparian buffer and stormwater control standards of the county. The developer also contacted the NC Natural Heritage Program to review their database for any rare species, important natural communities, natural areas, or conservation/managed areas within the project boundary and none were identified in their records. It should be noted that Plan Chatham is not intended to be used as a regulatory tool, but is a policy document. When reviewing subdivision applications the boards can use the plan as a tool to identify future regulatory changes.

Ms Tyson said that at the July 10, 2018 Planning Board meeting the following was discussed. A public hearing was held and neighboring property owners expressed concern about boring under the stream; widening the stub-out to Mr. Don Medlin's property; proposed grading of the cul-de-sac near Mr. Medlin's property; whether blasting occur to remove the boulders on the property; whether there would be a buffer along the property line between parcel 68688 owned by Shelton Gene and Linda Lloyd and lots 20-22; whether the trees and vegetation would be removed along lots 20-22 for the septic supply lines; and safety concerns of the pond on neighboring properties. The public hearing was closed and the Planning Board discussed the items brought up by neighboring property owners with the developer. Discussion of Bonterra Subdivision was postponed at the June 5, 2018 Planning Board meeting to give the developer time to discuss these issues with the neighbors and determine if they could be resolved.

On June 15, 2018, the developer met on-site with Mr. Don Medlin and Mr. and Mrs. Gene Lloyd. Mr. Medlin had concerns about the grading of the cul-de-sac and the developer agreed to review the proposed grading with Mr. Medlin during the Construction Drawing process. Mr. and Mrs. Lloyd's concerns were clearing of trees and vegetation along their property line. The developer has proposed a 20' undisturbed buffer along the property line to the riparian buffer and the developer shifted the septic supply lines. Mr. Thomas Boyce, Chatham County Environmental Health Inspector stated in an email dated June 25, 2018 "the changes made to the supply line areas are acceptable", Attachment #14.

Ms. Tyson explained that there was email correspondence between Linda Lloyd; David Lazzo, Developer; and Anne Lowry, Chatham County Environmental Health Director. Mrs. Lloyd had questions about the septic appearance, size, location of each system, and if the three septic lines will converge into one larger pipe to be bored under the stream for Lots 20-22. Mr. Lazzo stated in the email

dated June 21, 2018 that Lots 20-22 will have their own septic tanks and drain fields. The septic systems are to be traditional and normally only the access lid is exposed above ground. They do not converge into one pipe and once the pipes crosses the stream each will go directly to their designated septic field. Mr. Lazzo also stated the stream is “no more than 18 inches across so the crossing shouldn’t be problematic”(see Attachment #15 for the email correspondence).

Mrs. Lloyd asked if the County required the systems to be inspected. Ms. Lowry stated, “per current North Carolina septic system rules, the local health department is required to inspect any septic system requiring a pump one time every five years. Septic systems with multiple pumps are required more frequently and required to have a private certified subsurface system operator contracted to manage the system”. Mrs. Lloyd also had concerns about boring under the stream and Ms. Lowry stated that North Carolina septic system rules address stream crossing in 15A NCAC 18A..1950(h) (see Attachment #15).

The developer added a 20’ wide access easement between lots 16–17 and lots 18-19 and increased the southerly end of the cul-de-sac from 50’ to 66’ to the adjacent property to the south, per request by Planning Staff. A revised layout and cover letter were provided by the project engineer and included in the packet (see attachments 16-18).

Ms. Tyson ended by saying that the Planning Department recommends granting approval of the road name ‘Bonterra Way’ and granting approval of subdivision First Plat for **Bonterra Subdivision** with the following condition:

1. Approval of the First Plat shall be valid for a period of twelve (12) months following the date of approval by the Board of Commissioners and the Construction Plan approval shall be valid for a period of twenty-four (24) months from the date of approval by the Technical Review Committee or Board of Commissioners.

Ms. Tyson said that the developer, Peter Bellantoni and Mr. Lazzo was available to answer questions.

Board Discussion followed and some items discussed were as follows:

- Vice-Chair Lucier asked, are the septic areas for lots 20, 21, and 22 joined through the 15’ easement area and the easement is part of their lot? Ms. Tyson replied yes, they are.
- Ms. Weakley asked, can anyone clarify the 10% option for stormwater? Mr. Bellantoni answered with this statement. It is an analysis looking down stream in

increments of acreage where they are not increasing flow by more than 10%. Preliminary calculations to support that in conjunction with the stormwater management facility at the end of the cul-de-sac. That facility is outside of the analysis they did for the 10% rule, so it is even more conservative than the calculations that were provided. Also, road side ditches having check dams installed every 200' or so, to address water quality and further rate reduction.

- Ms. Weakley asked, is this something that is allowed in our stormwater ordinance? Mr. Sullivan replied, yes, it is an option. Ms. Weakley asked about bio retention and proposed stormwater control measure split between two lots.

Mr. Bellantoni answered, they have not designed that as of yet. The intent of that ordinance so that they are not impacting the adjacent property. It is between two lots and the HOA will provide the maintenance.

Ms. Weakley stated this is not clear on the map. Mr. Sullivan said it will be in its own separate easement. They would have some standardized language that is required once they go into the construction planning. Ms. Weakley asked, why not make it simpler and have it on a separate lot? Mr. Bellantoni answered there will be an access easement and a 20' drainage through the property.

- Vice-Chair Lucier asked, who makes the determination of the 10% option? Mr. Bellantoni answered that they are reviewing with the environmental quality staff now and prepared preliminary calculations.

How does that change the layout? Can this come back before us if there are some changes? They would have to do another analysis. Mr. Sullivan stated if there was a significant change that could change the road or stormwater pond. That would be a lot reduction and be part of an administrative review. You would not see it again, you will not see the Construction Plan.

Chair Siverson asked if any neighbors here are to speak on this item and Paula Phillips, Clerk to the Board said no.

- Ms. Weakley stated that neither the road crossing nor the utility crossing are perpendicular right now to the stream. Mr. Bellantoni responded that is correct. And they have up to 75 degrees and they will be within that range. It is a meandering stream and finding a clean shot at it is not easily solved. They matched it up the best they could with the regulations.

- Has a conservation subdivision been considered? Mr. Bellantoni said, he believe years ago it may have been considered, but it isn't at this point.
- Will they be clearing most of the lots? Mr. Bellantoni stated, all they will be doing is clearing to the roadway improvement. Then each lot is sold. The value of these lots are not to clear them. Try to maintain the beauty of the property and trees. They are anticipating that is how it will be developed.
- Chair Siverson mentioned that a recent e-mail stated it is likely that one builder will buy the property and that you might be writing a covenant together, is that true? Maybe protective covenants to protect the property? Mr. Bellantoni answered, one, two or three builders, they will still have the say in writing of the covenants and how they develop the property.
- Chair Siverson stated, even though the environment documentation stated that there wasn't any endangered species or significant plant communities, my observation is that it probably has native plants and would appreciate any kind of preserving of nature.
- Ms. Moose asked, how much should we be considering the Comp Plan and what would incentivize you to have open space? Mr. Sullivan answered, as a subdivision they can use the comprehensive plan as an evaluation tool. Mr. Bellatoni responded about the open space, not being the developer he doesn't want to speak out of turn. They are doing our best to provide minimal impact the best they can.
- Chair Siverson stated, from the e-mails it looks like the neighbors, the Lloyds and Mr. Medlin concerns have been addressed to their satisfaction. It seems as though everyone is happy. Ms. Siverson asked about the grading and if they might be involved with that as well. Mr. Bellatoni stated he would be involved with the discussions with Mr. Medlin to review the final plans. Chair Siverson said she hopes that will happen as promised.
- Ms. Weakley commented that she is not a fan of offsite septic, crossing streams for offsite septic, and concerns with how the lot lines are. She would like to address this in the UDO soon and noted that it happens a lot. She added that Chatham County has lots of rock, and that land doesn't perk. She will vote to

support this item reluctantly. She asked all developers to please do a better job of developing without offsite septic.

Ms. Moose commended and thanked the neighbors for working together so well.

Mr. Galin made a motion to approve this item; seconded by Mr. Gaeta.

Motion passed unanimously 9-0

2. Request by Lee Bowman, Project Manager, on behalf of NNP Briar Chapel, LLC for subdivision **Preliminary Plat for Briar Chapel, Phase 16 North**, consisting of 56 lots on 23.92 acres located off Middleton Place, parcels #2177, #82828 and #1184.

Ms. Tyson gave an overview from the staff notes and below are some things she reviewed:

Ms. Tyson said that Briar Chapel is reviewed under pre-2008 Subdivision Regulations. In October of 2017, Briar Chapel submitted a waiver request to the Board of County Commissioners to allow a roadway stream crossing between Phase 16 South and Phase 16 North in accordance with impacts previously approved by the U. S. Army Corps of Engineers and NCDENR. Per Nick Robinson, Attorney, the crossing would allow continuity between Phase 16 South and Phase 16 North. Both phases are age 55+ housing neighborhoods. The BOC referred the waiver request to the Chatham County Environmental Review Advisory Committee (ERAC) for review and recommendation. The ERAC unanimously recommended granting the requested waiver on December 14, 2017. The Board of Commissioners approved the waiver request on January 16, 2018. See attachment #3.

Ms. Tyson stated, the request before the Board is for subdivision preliminary plat review and approval for Briar Chapel Phase 16 North consisting of 56 lots on 23.92 acres. Approval of the Phase 16 North preliminary plat with the stream crossing will affect the road and lot layout in the adjacent US Steel development. There are no US Steel lots included in this application. The preliminary plat shows six (6) lots in US Steel (greyed out) that will front on Middleton Place that will be included in a future submittal. Included in the packet is a cover letter dated June 28, 2018 prepared by Chris Seamster, PLA, McKim and Creed, attachment # 2. Approval of Phase 16 N as proposed will change the configuration of US Steel as shown on Attachment # 5. The

reconfigured road layout will then be incorporated into the Construction Plan submittal for US Steel.

The applicant has submitted the approved agency permits as required for a preliminary plat request which include NC Department of Transportation, Chatham County Erosion Control, US Army Corps of Engineers, NC Department of Environmental Quality Division of Water Quality, and Chatham County Public Works. The permits can be viewed on the Planning Department webpage.

Ms. Tyson said, the TRC met on June 20, 2018 to review the request. County staff Planning, Environmental Quality, Fire Marshal, GIS, Emergency Management Office, and Central Permitting were present.

Chris Seamster was present to represent the developer. Discussion included any additional parking, when will US Steel be submitting the Construction Plan application, and stormwater pond. The Fire Marshal continues to have concerns regarding emergency vehicle access and on-street parking.

She continued to say that the subject property is located in an area designated as Compact Residential which allows a mix of detached and attached residential units complemented by a variety of open spaces. Phase 16 North will have 56 single family detached homes on 23.92 acres. Compact Residential allows community centers, amenities, recreational uses, schools and churches. Briar Chapel development has various amenities including parks, walking trails, club house and pool, along with public schools either within the development or on adjacent properties. Compact Residential areas are to be connected by a system of local and collector streets. Phase 16 North has public roadways connecting to the balance of Briar Chapel.

Ms. Tyson ended by saying that the Planning Department recommends approval of the road names Middleton Place and Clifridge Court and recommends granting approval of the preliminary plat titled **Briar Chapel, BC Phase 16 North** as submitted.

Ms. Tyson said the developer and Attorney, Nick Robinson are available for questions.

Board discussion followed and some items discussed are as follows:

- Question asked about whether or not the stormwater management plan has been approved by the department of Environmental Quality (DEQ) and Chatham County planning. Ms. Weakley wanted to know, is there anything in writing saying the plans have been approved? Mr. Sullivan stated, DEQ reviews and approves the plans. Mr. Seamster said that the DEQ had reviewed the plans at the monthly TRC meeting. The ultimate permit comes from the state, the county was seeking to become a delegated authority. Mr. Seamster stated they have

done what they should do by providing the plans to the county same as the state. Mr. Sullivan said it was approved at the TRC meeting and agrees there should be something in writing stating that it was approved.

- Concern with some of the stormwater from US Steel is running into the stormwater ponds in Briar Chapel. Stormwater ponds will be designed to meet the county requirements even though they are in Briar Chapel.
- Ms. Weakley stated she had questions and concerns regarding the stream crossing and said that she cannot vote to approve this phase of the development, because you showed a bulb in phase 16 South on master plan, but it was a stub out. You were intending to cross the creek even when the master plan did not show that. You got a permit from Army Corps to cross that stream. That crossing was not in the master plan and then you come back to the Planning Board to ask for a waiver to cross the stream.

There was discussion regarding a previous meeting and the vote with Phase 16 South and Planning Board voted in favor 5 to 4. Mr. Robinson stated that the no vote was taken by the Planning Board on the stream crossing waiver. Mr. Sullivan stated, we did not vote on the waiver. Vice-Chair Lucier voiced, there was concerns because there was every intention to cross that creek because of the stub out and that caused the negative votes in 16S. Why is it better to cross the creek than the old configuration to not cross the creek? Mr. Robinson said they submitted a waiver request to the Board of Commissioners for two reasons, environmental and practical development standpoint and it was kept self-contained. The commissioners wanted the Environmental Review Advisory Committee to review it. They talked about it in great detail. They determined unanimously, that this was the best approach. Only after that meeting, did it come back to the BOC and was approved.

Ms. Weakley stated she was upset that the developer is not following the master plan and thinks they are not being forthcoming. This is a head water stream, wetlands and now a stream crossing. Planning staff brought it to their attention as a marketing plan. Mr. Robinson answered, that is your opinion and he respects it.

Vice-Chair Lucier asked about the six US Steel lots, will they be accessed by the road that crosses the creek? Mr. Robinson responded, yes that is correct.

- Ms. Weakley confirmed this was pre 2008 regulations, and curious about the west side of wetlands, what kind of buffer is that? She also stated the origin of the stream is in the beginning of that wetland and it should be a uniform buffer incorporating the wetland. Mr. Seamster stated the line going through the middle is the US Steel side and 50' off the wetlands on their side. Mr. Robinson stated on the Briar Chapel side, that is 50' off of the stream, so it looks like that buffer does need to be shifted out and when we do the final plat we will update that and make it a condition.
- Concerns about not having much parking for the 55 plus care living area.

Mr. Robinson stated he spent a long time working on this in 2017 with the Fire Marshal and staff and improvements with HOA. He added there is only parking on one side of the street on certain days. He also said they have started to enforce towing as well. They are making sure that the parking issue is being dealt with. Currently we are just looking and a small snap shot of the plan, we have added pockets for parking in other areas just not this section. The fire marshal is fully satisfied with the system we came up with. We will provide the planning staff with a written update on the parking plan.

Mr. Gaeta asked, what construction occurs when you put a road over a stream like this and what do you do to minimize the impact when building the road? Mr. Seamster answered, that this is an intermittent stream. Very small drainage area. When there is water in it, you do a coffer dam and pump water around it. So they can lay the ground work for the pipe. The pipe will be a 42" CMP metal pipe. Larger than it needs to be. After pipe is in, they will back fill it in layers. The road will be 8 to 9 feet wide. Ms. Weakley added, when you pipe a stream, animals may get hit by cars and water velocity through the culvert will increase. She is concerned about long term impact and this stream is important to the Haw River and Jordan Lake.

- Concerns about the stream crossing and where does the Environmental committee and our committee's cross? There is confusion and conflict with this.
- Vice-Chair Lucier asked, is there a report that the Environmental Review Advisory Committee submitted? There was discussion about it in the January meeting.

- Chair Siverson stated she will support this because of the Environmental Review Advisory Committee vote. She and other board members are still upset because they said a couple times that they were not going to cross the stream. Just please be more up front we will be fair with you.

Motion to approve this item made by Mr. Gaeta; seconded by Vice-Chair Lucier.

Motion passed with 8 in favor and 1 opposed. Ms. Weakley.

3. Request by F-L Legacy Owner, LLC for subdivision Final Plat approval of **The Legacy at Jordan Phase 5A3** consisting of 15 lots on 9.36 acres, located off SR-1716, Big Woods Road, parcel 92463.

Ms. Tyson gave an overview of the staff notes and some things noted are as follows:

She reported that the request before the Board is for final plat approval of The Legacy, Phase 5A3 consisting of 15 lots on 9.36 acres with a financial guarantee. Phase 5A3 received preliminary plat approval from the Board of Commissioners on May 21, 2018. The final plat conforms to the approved preliminary plat. The pre-2008 Subdivision Regulations allow a final plat to be submitted with a financial guarantee when a minimum of 40% of the total cost of improvement have been completed and when the public health and/or safety will not be endangered. Mitch Craig, PE, CE Group, submitted a cost letter with the final plat submittal certifying that 74% of the required infrastructure has been completed; that all roadways are private and will be constructed to NCDOT standards; that the waterline installation has been completed; and that the roadways are accessible to emergency vehicles. An updated cost letter may be submitted if additional work has been completed prior to recordation of the final plat to reduce the amount of the financial guarantee. The county attorney will review and approve the form of the contract and financial guarantee.

Ms. Tyson said that the Technical Review Committee met on June 20, 2018 to review the request. Per an e-mail received from Larry Bridges, Utilities Director, the water line installation has been completed, however, the as-built drawings and engineer's certifications have not been received. The cost of these documents will be included in the financial guarantee if they have not been provided prior to final plat recordation. Staff had no concerns or questions. The submittal meets the requirements of the Subdivision Regulations.

There was one condition of preliminary plat approval as follows:

1. The entire 100' riparian buffer area along Parker's Creek shall be labeled 'undisturbed' on the final plat. This condition has been met.

The Planning Department recommends granting final plat approval of **The Legacy at Jordan Phase 5A3** with the following conditions:

1. The county attorney shall review and approve the contract and financial guarantee prior to final plat recordation.
2. The final plat shall not be recorded until the engineer has certified that the roadway providing access to the parcels are accessible to emergency vehicles.

Ms. Tyson said the developer Mr. Mitch Craig and Mr. Fred Ward are available for questions.

Board discussion followed and some items discussed are as follows:

- Ms. Weakley stated she has concerns about Parkers Creek. Adjacent property owner Mr. Raymond had some concerns about his property and you shifted lots for open space. This is Parkers Creek going directly to Jordan Lake and is a protected beach area. It is also impounded by US 64 causeway. Stream water coming into Parkers Creek does not mix well with the lake. Any pollution coming into Parkers Creek is going to a recreation area just downstream of this development. Part of a natural area called Big Woods Upland Forest. She has big concerns about water quality impact. If you are going to conserve 40 acres of open space you should do it in sensitive areas which is next to the creek. Why not put it next to the creek? She also stated that there are steep slopes along Parkers Creek. These are the concerns she raised during the preliminary plat as well.
- Vice-Chair Lucier asked, what will happen with that 30' buffer near lot 401? Mr. Craig stated that will be open space. What kind of activity will go on in that open space? It will be undeveloped area stated by the developer.
- Will there be cutting trees or spray irrigation? Mr. Craig stated that there will be no irrigation and nothing is planned there. Mr. Ward stated that nothing is going to be done on this property. There are no plans, the property is too steep, and will be protected by covenant.
- Question and concerns about the lots being shifted closer to Parkers Creek. The developer stated that was done to accommodate Mr. Raymond's concerns.

- It was asked if there is a way to configure these to allow the same amount of lots, but have better water quality, but it was found that it was not an option. Is that a correct assessment? Mr. Sullivan responded there have been trends with recent CUP to have smaller lots. They reduced the lot size to move the lot which is the trend.

Motion made by Mr. Gaeta to approve the request; seconded by Vice-Chair Lucier to approve the request with two conditions.

Chair Siverson asked if there were any more discussion and there was.

Ms. Weakley stated she can't vote to approve this item, she tried to address this in the preliminary plat, and Jordan Lake isn't getting any better.

Chair Siverson also stated that she voted against in preliminary plat, and will vote against this final plat for the same reason of concern for the steepness of the slope and the importance of Parker Creek as it empties into Jordan Lake close by, but applauded the developer for efforts to mitigate neighbor's concerns and other improvements to the development.

- Ms. Hager stated she appreciated that they moved the lots and did a great job complying and working with the neighbor.

Motion made by Mr. Gaeta to approve the request with the conditions; seconded by Vice-Chair Lucier.

Motion passed with 6 in favor and 3 opposed. Chair Siverson, Ms. Weakley and Ms. Hager.

#### VIII. ZONING:

1. Request by the Chatham County Board of Commissioners to rezone Parcel No. 60279, being 10.12 acres, Oakland Township, located on Mays Chapel Road, from R-1 Residential to IL-Light Industrial.

Mr. Sullivan gave an overview of the staff notes. He stated The Comprehensive Plan specifically supports "rezonings for businesses uses or properties made

non-conforming by the extension of zoning in 2016.” (Land Use Policy #7, Strategy 7.2). Consequently, prior to the adoption of county-wide zoning, the Chatham County Planning Department sent a business listing form to every property owner in the unzoned portion of the county. Nearly 13,000 forms were mailed. The business listing form asked property owners to list any non-residential use of their land, so the Planning Department could properly document any non-conforming uses and prepare for future rezonings. The Planning Department received over 1,000 forms.

Mr. Sullivan continued saying in addition to mailing and documenting business listing forms, Planning staff compiled tax and fire inspection records to determine if there were any other businesses in the formerly unzoned portions of the county. After combining tax and fire inspection records, along with the business listing forms, staff determined that 573 parcels in the formerly unzoned part of the county may contain non-conforming uses or businesses. In order to confirm that these non-conforming uses actually existed, staff performed site visits to each parcel, spoke with the property owners, and documented the current use of the property. After several months of visiting properties, further research by staff, and meeting with property owners, the following observations were made by staff:

- 252 parcels are eligible for rezoning to a non-residential zoning district
- 53 parcels are eligible for the issuance of a home occupation permit (HOP) 268 parcels are not eligible for rezoning or issuance of a home occupation permit

Mr. Sullivan said that during the site visiting process, the interior of multiple parcels were inaccessible to staff due to “No Trespassing” signage, the presence of loose dogs, or physical barriers, such as locked gates, fences, or washed out roads. However, the tax data, aerial imagery, and some visual confirmation from the site visits allowed staff to recommend rezonings, issuance of HOPs, or maintenance of the status quo for these parcels.

Based on the observed use, staff determined which zoning classification would be most appropriate to consider to use for rezoning the property. Since many uses are permitted in multiple zoning classifications, staff recommended that the parcels be eligible for rezoning to the least intensive permitted zoning classifications possible. For example, if a use were allowed in both light and heavy industrial zoning district, then staff recommended that the parcel should be eligible to be rezoned to the light industrial classification. Furthermore, some uses are permitted in an R-1 or R-5 district with the issuance of Conditional Use

Permit. It should be noted that many of the non-conforming uses on parcels eligible for rezoning do not occur across the entirety of the parcels. Many uses are limited to a single building or small portion of the parcel.

He continues to say that after the inventory of businesses was completed, the next step was to meet with property owners eligible for a rezoning to determine if they wish to rezone their property, and if so, how much of the property they would like to rezone. Planning staff contacted property owners and scheduled these meetings. Additionally, planning staff coordinated with representatives from the Chatham County Tax Department, as the issue of changes in tax value was likely to arise. In addition, on March 1<sup>st</sup>, at the direction of the Board of Commissioners, Planning staff also sent a letter to 35 property owners who have vacant buildings on their property in the formerly unzoned portion of the county, offering them the opportunity to request a rezoning to any zoning district. These vacant buildings had been previously identified by Planning staff during site visits in the summer of 2017.

Out of 252 properties that were identified as having a non-conforming use, 52 parcels (of which, this item contains 1 parcel) were requested by their owners to be rezoned, 24 parcels were requested to remain in their current zoning district, and 176 parcels' owners did not respond to the letter regarding rezoning, yielding a response rate of 30%. Out of 51 Home Occupation permit applications sent out to properties that qualified for an HOP, 22 have been completed and returned to Planning staff. . A GIS web application has been created identifying the 52 properties, and the list of the 52 parcels requested to be rezoned has been included as an attachment. It should be noted that Planning staff will most likely receive more requests for eligible businesses to be rezoned in the future. Planning staff will follow up with the Board of Commissioners later this year to request a public hearing for those additional rezonings.

Mr. Sullivan informed that on April 16<sup>th</sup>, 2018, the Board of Commissioners held a Public Hearing on the business rezonings. One member of the public, Anthony Antonelli, spoke against the rezoning of parcel 60279 (1815 Mays Chapel Rd), stating that he was an adjoining property owner and did not want industrial activity in a rural area (a map has been included as attachment 1 for reference). However, based on the description of the area by the speaker and other residents who spoke in opposition, Planning staff initially inferred that the speaker was referencing the rezoning request at parcel number 90745 (1506 Mays Chapel Rd), which is also located on Mays Chapel Road and under the same ownership. The Board voted to forward the item to the Planning Board for a recommendation.

It was noted that the Planning Board discussed the item during their May 1, 2018 meeting. The same individual who spoke at the April BOC meeting spoke again and repeated his concerns about having industrial activity near his land. However, based on the description of the area by the speaker, both the Planning Board and Planning staff inferred that the speaker was referencing the rezoning request at parcel number 90745 (1506 Mays Chapel Rd). Therefore, the Planning Board voted 9-0 to recommend rezoning of parcel 60279 (1815 Mays Chapel Rd) from R-1 Residential to IL-Light Industrial, as it was included in the batch of formerly unzoned parcels that were voted on as a group. It was not until after the meeting that Planning staff were contacted by another resident who lives on Mays Chapel Road that the speaker was referencing the parcel in question.

Mr. Sullivan stated that during the June 18, 2018 Commissioners meeting the Board voted unanimously to return this item to the Planning Board for additional review due to the confusion about the public comments received. Excerpts of the April 16, 2018 Commissioners minutes and May 1, 2018 Planning Board minutes are included as attachment 2 and Mr. Antonelli's comments are highlighted for reference.

Mr. Sullivan ended by saying, given the confusion regarding which parcel the speaker at the April BOC and May Planning Board meeting this item has been returned to the Planning Board for additional consideration.

The Board has the option to reconfirm the consistency statement and recommendation to rezone that was approved during the May 1, 2018 meeting or adopt a consistency statement that the rezoning is inconsistent with Plan Chatham and recommend denial of the rezoning. The consistency statement recommended during the May 1 meeting follows:

**The request for rezoning Parcel No. 60279, being 10.12 acres, Oakland Township, located on Mays Chapel Road, from R-1 Residential to IL-Light Industrial is consistent with the comprehensive plan of Chatham County, Plan Chatham, by supporting the diversification of the tax base and generation of more high-quality, in-county jobs to reduce dependence on residential property taxes, create economic opportunity and reduce out-commuting. Specifically, this request supports Land Use Policy #7, Strategy 7.2 which encourages support for “rezonings for businesses uses or properties made non-conforming by the extension of zoning in 2016.”**

A consistency statement that the rezoning is inconsistent with Plan Chatham follows:

**The request for rezoning of Parcel No. 90745, located on Mays Chapel Road, being 6.29 acres, from R-1 Residential to IL-Light Industrial is not in compliance with Plan Chatham, it impairs the integrity of the neighborhood and is inconsistent with the spirit of the Board of Commissioner goals and health goals.**

The second action by the Planning Board is to make a recommendation for approval or denial of the rezoning.

Mr. Sullivan informed the Board that the property owner of 60279 was here tonight and some members of the public as well were here and might have some input.

Board discussion followed and some items discussed are as follows:

- Vice-Chair Lucier asked, which property was Mr. Antonelli's property? Mr. Sullivan responded with 63040. Vice-Chair then asked, if one of the properties were Mr. Smith's. Mr. Sullivan stated that both properties are Mr. Smith's and that was why there was some confusion because they are hard to distinguish between the two properties. Because of that concern it has come back to the Planning Board. There was some discussion about other properties. Vice Chair asked what are the other light industrial properties 18332 and 18299? Mr. Sullivan answered, Logging equipment storage, several trucks, warehouse, and 18299 is a saw mill operation and they have chosen not to do the rezoning and staying non-conforming. Vice-Chair asked, what are the blue designation properties on the map? Mr. Sullivan informed they are two churches.

### **PUBLIC INPUT:**

- Ms. Lynn Briggs of 68 Laurel Hill Dr. spoke and had a couple of comments. She stated that the problem with this light industrial category is that it is almost dangerous in residential communities. It is broad, vague and brings a variety of issues. She questions if this rezoning is the right decision for this area and not because it is not in keeping with the rural character of Chatham County. It is not

going to conserve any natural resources or create any quality jobs. She thanked the Board for their time and consideration.

- Ms. Angie Hilliard of 126 Laurel Hill Dr. spoke of her concerns with the rezoning of light industrial. She stated that they have been living in this area for 15 years and when the Smith's lived on the property they were nice neighbors. Ms. Hilliard concern is if this property were to be rezoned and sold it impacts the people who stay there greatly. Rezoning may make a sale for this property, it has no running water that she knows of, and was used as a storage facility, not in an industrial area. Ms. Hilliard is concerned that Mr. Antonelli wasn't present because this is next to his property and has been very vocal about this item. This road is going to have an impact on school buses and property value. Ms. Hilliard said her main concern is it being rezoned as light industrial and this area was rezoned in 2016 as a residential and would like to keep it that way. Ms. Hilliard request is that this property be denied for light industrial. She spoke of how traffic would have an impact and that they moved out into rural Chatham to get away from the city and noise. She is concerned about the curvy road with industrial trucks with this being the school district line. She named the schools as Northwood, Pittsboro schools, J. S. Waters, and Chatham Central. Four to six school buses pick up and drop kids off. Ms. Hilliard mentioned again her concern for property value and noise, appearance, the chemicals, and run off into Bear Creek River, Rocky River, and Deep River. This property was not in business under the first and last zoning back in 2016 and this property should not be allowed to come to compliance or reform. Ms. Hilliard gave an example of the property off Jessie Bridges Rd and Snow Camp Rd. They were zoned as light industrial and they are in compliance, but it has been devastating for the property owner there. Ms. Hilliard invited the board members to take a drive out to her beautiful community before making a decision tonight. Light industrial doesn't belong there. She thanked the Board for their time.
- Mr. Paul Briggs of 68 Laurel Hill Dr. wanted to speak his concern as well and said he purchased 15 acres in 1978 on Mays Chapel Rd. Regulations have changed over time. This property and area they live in is residential property and they want to keep it that way. They are not concerned about what was there before, but they are concerned about the future. What they don't want there is something that will regulate or deregulate our property as home owners.
- Mr. Robert Smith of 2140 Mt. Carmel Rd. Alton, VA the property owner of the item being discussed came to be heard to convince the Board to approve the

rezoning of his property. Mr. Smith started by saying he moved to Chatham County in 1988 until 2014. He stated that he established a business on Mays Chapel Rd in 1988. Mr. Smith stated he became successful and was a good neighbor. Gave people jobs, money, and supported the church financially for twenty years even though he did not attend. The property is across the street from that church. It is buffered by woods and sits back off the highway. It has a 4800 sq. ft. metal building with shelters around it. Mr. Smith spoke about hand planting trees on the property in 2004 when he bought the land because it was barren. To his knowledge they have never done anything to hurt the environment or the people or the community. Mr. Smith stated that someone failed to mail him a letter at the county level. If he would have received the notice originally and signed it, it would have been zoned light industrial to start with and would have never come to this. But because he moved, and didn't get the notice. He was unaware that the property was being rezoned and didn't have the opportunity to do anything. Mr. Smith stated if this property is not approved to be rezoned you basically taken this property in eminent domain. Because there is a metal building on the only high spot on the land. There is 10 acres of land there and about 9 acres is wetland and can't be used for anything else. There are other light industrial properties on this road. Mr. Smith said in closing, whatever happens it will be okay. If you rezone it to light industrial it will make it easier for him to sell it when it is ready to sell. The property is just not suitable for anything else. He thanked the Board for their time.

Board discussion followed and some items discussed are as follows:

- Ms. Moose asked, if it is only ever going to be used as a warehouse why can't it be nonconforming use? Vice-Chair Lucier stated if it is nonconforming and not active for a year, then it will have lost its nonconforming status and would become residential.

Chair Siverson asked, is it actually active at this time? Mr. Smith answered saying he has equipment storage in the building. Nobody is in the building currently. The building was leased to a computer company for about one year. No tenant in the building now.

- Mr. Bock asked Mr. Sullivan, what would have happened if the letter would have been forwarded to him and he would have received the letter? Mr. Sullivan asked Mr. Smith if he was referring to the 2016 letter for clarification. Mr. Smith replied with, yes the original letter. He went on to

say that he thought that if he signed off on that letter, his understanding was that if he said yes, I'm using this property as business and have been using it as a business, that property would have automatically been zoned as light industrial. Staff and Chair Siverson replied to Mr. Smith's statement with a no, that it is not an automatic rezone and would have to go through the public hearing process. Mr. Sullivan stated that the first letter back in 2016 had a business list attached to it and made all the property nonconforming property. The second letter in 2017 the BOC offered business property owners the option to rezone. Mr. Smith stated that he did get the second letter and why he is here to rezone to light industrial.

- Mr. Bock stated that there doesn't seem to be a compelling reason not to rezone. Ms. Weakley reminded Mr. Bock of the residents' concerns made by the neighboring property owners. She said that light industrial has a long list of uses. She stated that this is a compelling reason because of the property values and what might be put next to them and to think hard about this. Mr. Bock said that he was aware of that and he understands the concerns.

Mr. Smith asked the board what about his rights too. The property is dead if it does not get rezoned.

Mr. Bock stated that this very scenario came up as we were talking about the zoning and he said if we do the rezoning the way we are doing it, that is going to lower the property values of the current owners. He was assured by members of the planning board and the BOC that they would not lower the property value. They discussed for a month and something he brought up over and over. If we don't rezone it, it hurts the property.

Vice-Chair Lucier stated to Mr. Bock that he understands what he is saying and argued for that too. There are two issues. Do what we can to insure existing businesses are not hurt by the zoning action from 2016 and at the same time, we have to honor the integrity of neighborhoods and take that into consideration as well. Vice-Chair Lucier said he is having difficulty making this decision as well. However, inclined to be against this rezoning because we have to hear the wishes and concerns of the neighbors in that area.

Mr. Bock responded that he sees where the Vice-Chair is coming from for that conclusion, but there were discussions not about just existing businesses, but had the discussion of property values and property owners with their property rezoned. He said he felt like they wouldn't stick to that promise and that he was told that he was over reacting. Vice-Chair stated that they approved 48 of the 52 properties, the vast majority of those cases were in fact honored.

Chair Siverson stated that there is always the option for non-conditional use. Could someone come forward, offer to buy the property and come to the planning board with a very specific proposal that we could evaluate? Mr. Sullivan responded with yes there can be a conditional rezone.

Ms. Moose asked, why that option was this not on the table for discussion? Mr. Sullivan stated that the commissioners can only initiate rezoning to general use districts. Only the property owner or somebody the property owner authorizes to submit an application for conditional district rezoning. Ms. Moose asked, if Mr. Smith could do that? Mr. Sullivan stated that there a lot of addition steps and cost involved.

Ms. Birchett stated you have to tie into the Land Use Plan. You basically have gained nothing, but another process. But it is an option.

- Vice-Chair Lucier stated anything on that list, there are about 80 different industries that are permitted by rights in a light industry zone, there are some that we went through and identified that would require an conditional use permit. Vice –Chair thinks it is time to revisit the list and not looking at it as the same kind of way because now there are so many requests to zone light industrial. On the list there are 80 uses and about 30 of them would require the conditional use permit.
- Ms. Moose stated that she agrees with the points as well. It is not clearly benefiting an existing business and it very clearly detrimental potentially to the neighbors.

Motion to approve the Consistency Statement by Vice-Chair Lucier; seconded by Mr. Gaeta.

Motion to approve the Consistency Statement passed 7 to 2, Mr. Galin and Mr. Bock opposed.

Motion made by Vice Chair Lucier; seconded by Mr. Gaeta to not approve the zoning request

Motion to not approve passed 7 to 2, Mr. Galin and Mr. Bock opposed.

## **QUASI-JUDICIAL**

2. A Quasi-Judicial public hearing for a Conditional Use Permit for a solar farm on Parcel No. 5751, being approximately 46.80 acres, located at 2361 Corinth Rd., Moncure, Cape Fear Township.

Ms. Birchett gave an overview of staff notes. A quasi-judicial public hearing was held on June 18, 2018. Planning staff presented the request and the applicant's representatives, Attorney Karen Kemereit and two expert witnesses, provided a brief presentation of the application. No one else spoke and there were a few questions from the commissioners.

Some areas of discussion from the commissioners included the size of the facility and how many residences it could serve, would the land be leased or owned by Strata Solar, how would the value of the property change for tax purposes, and the clearing of trees and maintaining the buffers.

Ms. Birchett continued saying the applicants stated this would be a 5MW facility that could potentially serve up to 200 residences. The solar company will be leasing the land and will not take ownership. The property is currently in land use by the tax office for an agricultural exemption which allows for a reduced tax rate. That rate will be removed and the new rate according to the use of the property should begin once the facility is completed. The Chatham County Appearance Commission has reviewed the proposed site plan and noted the clearing of trees as well. There is a vegetated buffer that will remain and will be supplemented with other plantings as needed.

The property is currently zoned R1, Residential and the adjoining properties are zoned R1; R1 with a conditional use permit for a RV Park to the east; R1 with a non-conforming mining operation currently being used for coal ash storage to the north; and IND-H, Heavy Industrial on the opposite side of Corinth Road. The property is located in a WS-IV Protected Area watershed district and is outside of the Jordan Lake drainage. There are no prohibitions on solar farms in this watershed district and impervious surface area is limited to 36%. There are

streams shown on the USGS and NRCS maps on this property and the Environmental Impact Assessment includes a wetlands map that includes a note that Andy Williams with the US Army Corps of Engineers verified them on July 25, 2017. The wetlands and streams are identified on the site plan and have been buffered.

Ms. Birchett said a community meeting on the project was held on May 30, 2018 and there were two attendees. The community meeting report notes that there were questions about setbacks and no changes were made to the plan. An environmental impact assessment was submitted with the application and the Environmental Review Advisory Committee (ERAC) reviewed it on June 14, 2018 (the review comments are posted online with the application materials).

Ms. Birchett stated in reviewing and considering approval of a Conditional Use Permit, the Board shall find that all of the following Findings of Facts shall be supported. Per the Zoning Ordinance “In considering an application for a conditional use permit the Board of Commissioners shall give due regard that the purpose and intent of this Ordinance shall be served, public safety and welfare secured and substantial justice done. If the Board should find, after public hearing, the proposed conditional use permit should not be granted, such proposed permit shall be denied.” The findings are as follows:

**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.** Solar farms greater than 2 acres in size are permitted in the R-1 Residential zoning district with approval of a conditional use permit. There are additional standards for solar farms in Section 17.6 that include a maximum solar panel height of 25’, 50’ perimeter setback from property lines and 100’ setback from public roadways, and modified Type B landscaping buffer for adjoining properties.

**It is planning staff opinion this finding can be met.**

**Finding 2 – The requested conditional use permit or revision to the existing permit is either essential or desirable for the public convenience or welfare.** The applicant contends that solar is a clean, inexpensive, and unlimited resource that is being guided by current needs from the utility companies for diversity in electrical power sources. The project will be unmanned, no traffic impacts other than those associated with construction and on-going monitoring, and have no lighting issues. There would be little to no environmental impacts with the exception of the clearing of trees for the project area.

**It is planning staff opinion this finding can be met.**

**Finding 3 – The requested permit or revision to the existing permit will not impair the integrity or character of the surrounding or adjoining districts, and will not be detrimental to the health, safety or welfare of the community.** This parcel adjoins or is adjacent to a mix of agricultural uses, industrially zoned properties, residential, and residential with a conditional use permit for a public and private recreation campground. To the north is the coal ash landfill.

The adjoining parcel to the east contains Dickens RV Campground that is used mainly for workers for various industrial projects and seasonal maintenance work for nearby plants and industries. The area of property between the actual rv site and this tract is open and cannot be expanded onto at this time based on the current conditional use permit for the park.

The adjacent tract to the rear and east of this parcel is also owned by Mr. Dickens and contains a large pond that was created by Mr. Dickens during an excavation project.

Solar farms by nature do not create odor, noise, dust, light, or adverse environmental impacts. The owner of the property is proposing to lease the property to Strata Solar, which affords them an opportunity to receive additional revenue from the use of their land.

The solar panels themselves will be required to comply with all electrical and building code requirements and be installed with anti-reflective coating to prevent glare toward any habitable building or structure and street right-of-way. The area will be secured with a six foot tall chain-link fence with three strands of barbed wire across the top, as well as a locked entrance gate for maintenance and emergency services.

**It is planning staff opinion this finding can be met.**

**Finding 4 – The requested permit will be or remain consistent with the objectives of the Plan Chatham comprehensive land use plan.** Objective 4, page 41 of Plan Chatham (the “Plan”) promotes diversifying the tax base when and where appropriate. This property is currently under land use for forestry agricultural use. This affords the landowner a substantially reduced tax rate while in operation. When the use of agricultural no longer exists, the landowners will be subject to an increase in property value which in turn brings in more tax revenue for the county.

Objective 5, page 42 encourages the avoidance or minimizing landscape fragmentation. This property will be kept at one single tract which reduces the possibility for development. The use helps to preserve the night sky by minimizing light pollution.

Objective 8, page 43 promotes projects that are more resilient by mitigating, responding, and adapting to emerging threats. Clean, renewable energy is an emerging alternative power source to supplement existing utility infrastructure and supports efforts to move more toward a more carbon neutral county.

**It is planning staff opinion this finding can be met.**

**Finding 5 – Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary facilities have been or are being provided consistent with the County’s plans, policies, and regulations.** The solar facility will not require use of the county water system or wells or septic systems. The project will be required to meet all erosion and sedimentation control and stormwater regulations, as well as stabilization of the area once panels are installed. This is usually done with grass.

A commercial driveway permit will be required from NCDOT.

The property is located within the WSIV-PA Protected Area watershed but is not located within the Jordan Lake buffer rule area. Up to 36% of the parcel can be developed in impervious surface. The regulations state that solar panels are not considered impervious surface and therefore are not counted in the calculations making the project less than 10% impervious surface based on the submitted site plan.

The property does have a streams per the NRCS Soils Map and USGS Map that are being shown as buffered for any land disturbance and development activity. The site plan

**It is planning staff opinion this finding can be met.**

**It is planning staff opinion that all of the findings have been met and that this request be recommended for approval with the conditions provided in the recommendation.**

Ms. Birchett ended by saying The Planning Board has up to three meetings in which to make a recommendation to the Board of Commissioners. The following conditions are provided for consideration if recommended for approval:

### **Site Specific Conditions**

1. The recommendations from the Chatham County Appearance Commission (CCAC) shall be followed as stated in the minutes and as shown on the submitted site plan that reflects the adopted design guidelines. The planning staff and CCAC may conduct routine inspections of the property to ensure compliance with the landscaping requirements.
2. A building permit shall be obtained and remain valid at all times within two years of the date of this approval or the conditional use permit becomes null and void.

### **Standard Site Conditions**

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

### **Standard Administrative Conditions:**

5. Fees - Applicant and/or landowner shall pay to the County all required fees and charges attributable to the development of its project in a timely manner, including, but not limited to, utility, subdivision, zoning, and building inspections.
6. Continued Validity – The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditional listed above.

7. Non-Severability – If any of the above conditions is held to be invalid, this approval in it's entirely shall be void.
8. Non-Waiver – Nothing contained herein shall be deemed to waive any discretion on the part of the County as to further development of the applicant's property and this permit shall not give the applicant any vested right to develop its property in any other manner than as set forth herein.

Ms. Birchett stated that representatives were available for questions

Board discussion followed and some items discussed are as follows:

Vice-Chair Lucier asked is the site access road is that on the top of the map? Ms. Wright introduced Jeremy Spaeth as a site engineer. He stated that yes that is correct, the site access road is at the top just past the wetlands and about 100' from the wetlands. There is enough room in-between the fence and the panels so you can drive a vehicle.

Chair Siverson asked, does that proposed buffer continue along the access road? Mr. Spaeth said, it does not go along the access road because there is no equipment in that area. Just the wetland tree area.

- Question about how many trees will be cleared? Mr. Spaeth stated roughly 30 acres of trees will be cleared.

Ms. Birchett stated that based on their landscape plan that the Appearance Commission looked at, the perimeter buffer areas will be maintained and have tree canopies and will fill in where the need to.

Ms. Wright said that it is mostly wooded in the buffer area and sight boundaries and they will be retaining as much as they can and if needed add landscaping to the north and south to help fill it in. The trees and the vegetation will be retained in the wetlands and the buffer around the wetlands and the 50' stream buffer as well.

Ms. Weakley stated that she is a fan of solar, but not a fan of cutting trees to install solar. That said, they are clearing a loblolly pine plantation, not natural forest.

Chair Siverson asked, no trees will be removed, no timbering or clearing operations will be going on in the buffer areas? Ms. Wright stated that the Chair is correct.

- Ms. Weakley stated that in the notes that USGS and soil map show no streams and asked, is that correct? The environmental documents stated that there are no surface waters. But you are saying that the USGS and soil map says there are streams, but you are calling them wetlands. This is why we did the Riparian Buffer regulation. Call it a stream or call it a wetland, it needs a buffer. Ms. Weakley asked, is it a stream or is it a wetland? Mr. Spaeth said it was verified by the Army Corps as a wetland with 50' buffer. Mr. Sullivan referred to drawing 6 that shows the wetlands.

Ms. Weakley asked, was there a stream determination done? She stated streams often go through wetlands, and a perennial stream gets 100' buffer and an intermittent stream and wetlands get 50'. Is there a stream with the wetland around it? Mr. Sullivan answered that this is a preexisting and a non-Jordan lot, no process or required for determination on water.

Mr. Galin asked, what kind of maintenance is performed and environment protection from transformer leakage? Mr. Spaeth stated that there is about two trips per month to mow the grass and the transformers are built with a containment pan under it to catch any fluid.

Ms. Weakley asked, what are the long term plans once this has served its purpose? Mr. Spaeth stated it is a 25 year design life. Most the material on the sight is recyclable. Polls, wiring, and panels are all recyclable. Ms. Weakley asked, when its use is over, will it go back to nature? Ms. Birchett stated in the zoning ordinance there is already requirements for decommissioning the site.

Motion to approve made by Vice-Chair Lucier and second by Mr. Gaeta.

Motioned passed unanimously 9-0.

IX. NEW BUSINESS: None

X. BOARD MEMBERS ITEMS:

1. Update from the Planning Board liaisons.

Vice-Chair Lucier went to Pittsboro Planning Board meeting. He spoke of the Mosaic part of Chatham Park. He stated that they requested for 20 commercial mixed lots on 44 acres that have to

be annexed and maybe a hotel be built. Could add an \$180,000,000 tax value to Pittsboro. Vice-Chair also stated that North Village is requesting 81 acres for developed for 316, average lot size only 5000 sq. ft. mostly cottages of 800 sq. ft., and condominiums. Powel Place is asking for a 264 unit apartment building. More towards the back of property. Residents upset about parking and traffic.

Ms. Moose reported that she attended the Agriculture Advisory Board meeting. They are currently working on updating the Voluntary Agriculture District Ordinance. Mid-way through that process. Spoke to them about our future work on the UDO and they seemed interested in that. Invited them to come to the planning board meeting because of their concern for development and water use impact as farmers.

Ms. Weakley stated that the Chatham Conservation Partnership meeting will be on July 19<sup>th</sup>. Topic is to enhance your backyard habitat. She has been working with Nick (GIS for County) to develop a conservation planning app. Helping Nick to come up with the layers to display so in the future you can go on there to look at important natural resource info. Having a Chatham Conservation Partnership meeting focused on review of this app. what would you like to see on this application. Ms. Weakley also talked about the Eno New Hope Landscape Conservation planning project being funded in part by Orange County. It involves Chatham, Orange, Wake, and Durham counties part of the Eno New Hope watershed. She talked about mapping, important landscape conservation. Committees are reaching out to planning directors and planning boards to get input on what we could provide as deliverables of the project that would help easily incorporate some of these recommendations into local planning and development. Chatham County has been a leader in this effort.

#### PLANNING DIRECTOR'S REPORTS:

Mr. Sullivan reported on the following:

