



**Chatham County Planning Board  
Approved Minutes  
January 8, 2019**

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  
Allison Weakley  
Clyde Frazier  
Jon Spoon  
Cecil Wilson  
Bill Arthur

Absent:

Gene Galin  
Jamie Hager  
Emily Moose

Planning Department:

Jason Sullivan, Planning Director  
Angela Birchett, Planner II/Zoning Administrator  
Kim Tyson, Subdivision Administrator  
Dan Garrett, Clerk to the Planning Board

- I. INVOCATION AND PLEDGE OF ALLEGIANCE:  
Chair Siverson introduced Cecil Wilson to the Planning Board. Mr. Wilson 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 (7 members were present and 3 absent). Mr. Galin, Ms. Moose, and Ms. Hager were absent.

IV. APPROVAL OF AGENDA:

Approval of the Agenda - Chair Siverson asked the board members if there were any issues with the Agenda. Motion made by Vice-Chair Lucier to approve the agenda with the understanding that the Zoning item number 1 has been withdrawn by the applicant, but will still have public input on this item, second by Mr. Frazier.

Motion passed 7-0 and the agenda was approved.

V. APPROVAL OF THE MINUTES:

Chair Siverson asked for consideration of a request for approval of the December 4, 2018 minutes with a few minor proposed changes. There were no objections by Board members and the December 4, 2018 minutes were approved.

Motion was made by Vice-Chair Lucier to approve; second by Mr. Frazier.

Motion passed 5-0, Mr. Wilson and Mr. Arthur did not vote on the minutes because they were absent during the December 4, 2018 Planning Board meeting.

VI. PUBLIC INPUT SESSION:

- Chair Siverson stated that the staff received an e-mail late afternoon from Mr. Bobby Branch that he is withdrawing the request for rezoning of the 5 parcels near Goldston. Chair Siverson stated to the public in attendance that the rezoning request has been withdrawn, but that does not mean the mining operation has changed. Chair Siverson stated that the Planning Board would still like to hear from the public about this item if they wish to speak.
- Mr. Donald Nortor of 2499 S. Main St. spoke and had a couple of comments. Mr. Nortor stated that his house is about 1500 feet away from the mining operation. The blast scared his wife and shakes the foundation of his home. He stated that he has installed a new door and took his time installing it so it would fit square. Now, the door will not open. Mr. Nortor stated that he is also concerned about the infrastructure such as the pump station and the water tower. He asked if the water tower is designed to withstand minor earthquakes. He thanked the Planning Board.

Vice-Chair Lucier stated that the permit has frequency limitations on the blasting. He asked Mr. Sullivan what kind of monitoring is recording the blasts. Mr. Sullivan stated that there were several questions that came up during the BOC meeting and he forwarded the questions to a representative with the NCDEQ mining division. Mr. Sullivan stated that one question was, prior to blasting, is there any monitoring or pre-blast survey of surrounding properties required of the mine operator? No pre-blast surveys are required. All blasts must be measured by a seismograph at a distance no farther than the closest non-company owned off-site occupied dwelling.

Mr. Sullivan stated that they do have equipment on-site and when the blasting is occurring, it is measuring the impacts of the blast. He stated that the staff has spoken to the mining operation and they are open to speaking with the neighbors. Mr. Sullivan posted both phone number and e-mail addresses of Bobby Branch and Phil Hovis (Plant Manager) for the public to write down.

- Ms. Denise Dunn of 904 Bear Creek Church Rd. spoke and had a couple of comments. Ms. Dunn stated that she was thankful that the applicant withdrew the request for rezoning. She stated that she owns an antique business in Goldston and the building is over 120 years old. She asked who is going to be responsible for damages done to this building during the blasting that causes everything to rock. She asked if we had the resources to fight a fire on 220 acres in a pit. Ms. Dunn asked for a Traffic Impact Analysis Report (TIA) from the NCDOT. She stated that this report is supposed to record how the traffic coming from the gravel pit is going to impact the traffic in Goldston and how it impacts the trains going through town.

Ms. Dunn stated that the mining operation is a neighbor they do not want and they are afraid. She stated that she doesn't know how they got the permit. From what she remembers, there were questions submitted that were supposed to be answered within 180 days. She said the next thing she knew, they had the permit. She never heard back on any of the questions that were to be answered. Ms. Dunn invited the Board members to Goldston when they are going to blast. She asked for a blasting schedule so they know that the boom they hear is the blast and not a plane crash.

Ms. Dunn stated that there is a horse stable on the border of the mining pit and they have been training riders for years. She asked, what happens if a child is on a horse and they blast and no one knows about it? She stated that it is a dangerous situation. Ms. Dunn also asked for no work on the weekends. Ms. Dunn stated that there were promises made by the owners and she would like to see those promises fulfilled such as all the trucks going out to Hwy 421 instead of coming in through town. She thanked the Board for their time.

Chair Siverson informed the public that because this request was withdrawn, it is an automatic denial of the request and if they wanted to make this request again, they would have to wait 1 year.

Vice-Chair Lucier stated that they would have to go through the entire process again, including the public hearing.

- Ms. Dunn stated that this company has bought a lot of property and she just doesn't know what they are going to do. This is why she continues to come to the Planning Board meetings and BOC meetings, she wants to be aware.

Chair Siverson stated that there is zoning in that area now and at least they have to go through the rezoning process. Ms. Dunn asked, does it matter when they bought the property? Chair Siverson stated that it doesn't matter when they bought it. It only matters when the mining permit was issued.

- Ms. Dunn asked if they were to start a zoning process on some of the other property they bought, it would be considered R1 and they would have to rezone that property? Chair Siverson stated that they would have to ask for a general rezoning, or ask for a Conditional Use Permit. That would give you as the public some leverage to have your voices heard.
- Ms. Weakley said that the mining permit states they are required to keep records of air blasting, groundwater monitoring, etc. She stated that on page 9 of the permit it stated that, "The operator shall, when requested by the Department, give 24-hour advance notice to the Land Quality Section Regional Office prior to any blast during a period for which notice is requested." Ms. Weakley stated that you may want to contact the Land Quality Section Regional Office and ask that they request notice for blasting events.
- Vice-Chair Lucier stated that they have monitoring wells and they are required to monitor them. He stated that should be public information and readily available. A citizen asked where that information can be found. Ms. Weakley informed them to contact the Department of Environmental Quality Regional Office in Raleigh. Vice-Chair Lucier added that you should include the health and safety concerns such as the horse riding stable.
- Ms. Marian Nortor of 2499 S. Main St. spoke and had a couple of comments. She stated that she had questions about the 2007 zoning. She said that in 2007 the corridor of Hwy 421 was zoned 1500 feet on either side of the road to R1. She stated that the three front parcels of the mining operation are zoned R1 in 2007, many years before the mine was in operation.

Vice-Chair Lucier stated that anything that is 1500 feet from the edge of the Right-of-Way of 421 is R1 and can have no mining activities in that area. Vice-Chair Lucier asked Mr. Sullivan, is any of the property within the 1500 feet border used for mining operation? Mr. Sullivan stated that in 2014 when the mining application was brought to the attention of the County, he had contacted Mr. Russ Patterson, the geologist preparing the application. He informed him of the 2007 zoning. Mr. Sullivan pulled up a map on the screen for everyone to see the zoning he had forwarded to Mr. Patterson. Mr. Sullivan stated that Mr. Patterson was already aware of the zoning that was in place and had designed the layout so there were no impacts from the mine within the R1 zone.

Ms. Nortor asked, if it was going to be okay to have a plant site on R1? Mr. Sullivan stated that back in 2014 they knew they were to stay out of the R1 area. Ms. Nortor is concerned because they are showing it in R1 on their plan.

Chair Siverson asked if there is any monitoring of that area. Mr. Sullivan stated that he can reach out to them and send them a reminder.

- Ms. Nortor asked if they are able to mine in the area in Orange on the map in R1. Mr. Sullivan stated, yes they can mine and expand in those areas because those areas in Orange were unzoned in 2014, it is only the areas in Blue on the map that they cannot mine.
- Chair Siverson stated that if they want to expand their mine outside of the 54 acres, they are going to have to apply for a modification to their mining permit. Mr. Sullivan stated that they can expand their mine anywhere in Orange area on the map.
- Mr. Spoon asked if they would have to apply for a rezoning process. Mr. Sullivan stated no, because they are legal non-conforming. He stated that the zoning ordinance provision allows for expansion for non-conforming uses onto additional property as it exists. They can't acquire additional property outside the boundary in Red and recombine the property and use the non-conforming provision to expand. It is only to the footprint of the property that it exists when the legal non-conformity is established.

Mr. Spoon asked if the County can change the zoning ordinance provision. Mr. Sullivan stated that yes, the zoning ordinance can be amended by the BOC and the non-conforming area is where the Commissioners have been relatively flexible. Mr. Spoon stated that this mine should have never been here in the first place. Ms. Birchett stated that the land wasn't zoned at the time.

- Ms. Nortor stated that she would like to see the mining operation to stay out of the Blue area because that will create a nice buffer for the homes in that area. Chair Siverson stated that they are bound by that and they cannot mine in the

Blue area on the map. Chair Siverson stated that Chatham County enforces the zoning.

- Ms. Dunn asked about the railroad access and crossing Hwy 421. Mr. Sullivan stated that road access and railway access is allowed. The footprint of the operation cannot go in those areas, but access is allowed.
- Ms. Primrose Sutton of 999 Goldston-Carbonton Rd. spoke and had a couple of comments. Ms. Sutton stated she has two questions. Do they have the right to change our Right-of-Way? She stated that Mr. Branch came over and wanted to build them another road, but where he wanted to put it, it's not convenient to us. She stated that she told Mr. Branch, no I don't want another road. She wants the road she was given because it is closer access to her house and her mother's house. Ms. Sutton also stated that when this first started, Mr. Patterson said that they were going to come and test the well water, but they have not done that.

Mr. Sullivan stated as far as the access, you would need to look at the recorded documents and see if there is a recorded easement and what the easement says. He stated that on the County side, there is not a mechanism to dictate to either Phil Hovis or Bobby Branch that they can't change your access. He advised Ms. Sutton to look at the recorded documents and that she may want to reach out to an attorney if they try to relocate your road.

- Mr. Sullivan stated that she should reach out to Mr. Hovis about testing the well. Ms. Sutton stated that they have both city water for one property and well water for the other property and she is concerned the blasting is contaminating the drinking water.
- There was some Board discussion about the location of Ms. Sutton's property and the location of her well, if the well was actually on the mining property. A survey should have been completed to know the location of the well and property lines. There was some discussion about testing wells and the requirements of testing wells. Also Board discussion about the observation wells on the mining property and the data recorded from those wells should be public information for anyone to access.
- Chair Siverson encouraged the citizens to reach out to Mr. Branch and Mr. Hovis to organize a meeting and discuss all their concerns.
- Vice-Chair Lucier informed Ms. Sutton that it is her choice if the easement should be moved, not Mr. Branch's choice. He encouraged her to make sure she had legal documentation showing the easement. Ms. Sutton said that it is recorded at the courthouse and it is on the map with all the property.

- Chair Siverson encouraged the citizens by saying it is a good idea to take pictures of the foundations and the testing of wells. It is a good starting point to collect the condition of things. Chair Siverson also stated that the question about who will be responsible for damages is a conversation with the mining company. It is a civil matter, and you want to make sure you have good documentation.
- Mr. Frazier stated that the mining permit says that they are supposed to have a seismograph located at the closest off-site regularly occupied structure. He asked if we know where that is located. Mr. Sullivan stated that Mr. Hovis told us it is located on the northern side of the site, but on the site. This will have more impact from the blasting because it is actually on the property.
- Chair Siverson stated to the public in attendance that she wished the Planning Board could do something about this mining operation next to Goldston.
- Vice-Chair Lucier stated that they brought the sewer lines into Goldston recently and the town is in better position as to how you want to grow because they have the capacity they didn't have before. It is unfortunate that a mining operation is right at the door step.
- There was a person in the audience who asked where the help of the Planning board and County was when they were fighting this mining operation when it was starting? Vice-Chair Lucier stated that the property was not zoned at the time and it did not come to the Planning Board.
- There was some discussion about enforcing the noise that is created by the mining operation day and night. Mr. Sullivan stated that the Sheriff's Department enforces noise pollution. He encouraged them to call the Sheriff's Department about the noise and see what they can enforce. Mr. Frazier informed the public to obtain a copy of the mining permit and require them to live up to the conditions in the permit. There are limits on noise, dust, and required monitoring for water.
- Ms. Weakley informed the public that there is a blasting plan. She stated to call the Raleigh office and request a copy of the permit and to be notified 24 hours before a blast occurs. Ms. Weakley stated that everyone has a voice. Collectively, keep it up and you will be heard and you will get someone's attention. Ms. Dunn stated that she is going to set up a meeting for everyone with Mr. Hovis.

VII. SUBDIVISION:

1. Request by Sears Design Group, P. A. on behalf of Fitch Creations, Inc. for **Revised Sketch Plan** approval of the existing residential portion of the approved preliminary plan for '**Area D**', consisting of 36 lots on 22.3 acres, located off SR-1813/East Camden, SR-1817/Millcroft, SR-1812/Weathersfield parcel #18998.

Ms. Tyson gave an overview of the staff notes and she reported that Farrington Village is reviewed under the pre-2008 Subdivision Regulations and the 1994 Watershed Protection Ordinance. The Planning Board has two meetings to review the request. There are 126 lots remaining in Section X. No additional lots are being added with this revision request. The request before the Board is to revise the dwelling unit types and lot layout in Section X, Area D. This existing plan received preliminary plat approval by the Board of Commissioners on September 24, 2018. The preliminary plat approval included 16 residential lots in Area D and public, state maintained roadways Millcroft and West Camden which intersected Weathersfield, SR-1007. The preliminary plat approval also included a roundabout.

Ms. Tyson continued stating that sheet D2, shows the requested sketch design revisions. The revision request is for the interior lot layout only. The lots will be accessed by three separate state maintained roadways with cul-de-sacs as shown on the revised sketch plan. The revision does not include the proposed roadway, Millcroft, West Camden, or the roundabout. In discussion with Dan Sears, Sears Design Group, P. A., it is staff's understanding that it is the developer's intent to move forward with the construction of portions of Millcroft based on the existing approved preliminary plat. Per Mr. Sears, the developer plans to revise the roadway to eliminate the roundabout and replace with a T-intersection at some point in the future. It is also staff's understanding that the applicant plans to submit a request for a revision to the existing approved preliminary plat to eliminate the 16 lots previously approved, but retain the roadway approval and that the request will be submitted as one request with the preliminary plat approval request for Phase 1 consisting of 15 lots as shown on sheet D2.

Ms. Tyson stated that staff recommends that the revision to the existing preliminary plat and the request for the preliminary plat approval for Phase 1 be separate submittals. Staff recommends that the existing preliminary plat approval be revised to remove the 16 residential lots and to request either a revision to the roadway to change the roundabout to a T-intersection or to eliminate that section of the roadway at this time and have the preliminary plat approval be for the portions of the roadway that will be constructed in conjunction with Area D and to provide either new or updated permits as required from other agencies.



Ms. Tyson continued by stating that section X is served by the private Fearington WWTP. Alan Keith, P. E., Diehl & Phillips, P. A, certified in a letter dated 5/23/17 that “The Fearington WWTP currently has existing constructed capacity to serve some future areas in Section X, in addition to the currently constructed Area A, Area B, and Area K. Fearington Village is subject to the 1994 Watershed Protection Ordinance. Ephemeral features and wetlands were not required to be buffered under the 1994 Watershed Ordinance. The developer, however, volunteered to provide a 25 foot wide undisturbed buffer around all wetlands. In June 2018 the Corp of Engineers revisited Section X and provided updated wetland delineation, copies of the delineation provided on the Planning website.

Ms. Tyson stated that Fearington Village is exempt from the Chatham County Stormwater Ordinance based on the existing approved valid sketch design plan. The project is not exempt from the Jordan Lake Buffer requirements. The 36 lots are proposed to be accessed by three public, state maintained roads. The Technical Review Committee met on 12/19/18 to review the project. Larry Bridges, Public Works Director stated the project will need to be resubmitted to Public Works, as this will be processed as a new project.

Ms. Tyson stated in closing that the Planning Department recommends granting approval of the request for **Sketch Plan Revision of Fearington – Section X, Areas “D”** as submitted with the following condition:

1. Construction of Millcroft not commence until a revision has been approved by the Board of Commissioners to the preliminary plat approved on September 24, 2018 to eliminate the 16 residential lots and to request either a revision to the roadway to change the roundabout to a T-intersection or to eliminate that section of the roadway at this time and have the preliminary plat approval be for the portions of the roadway that will be constructed in conjunction with Area D and to provide either new or updated permits as required from other agencies, i.e. NCDOT, Chatham County Utilities, & Chatham County Watershed Protection.

Ms. Tyson said that the developer, Mr. Sears and Mr. Keith were available to answer questions.

Board Discussion followed and some items discussed were as follows:

- Vice-Chair Lucier stated that the original submission for area D had around 40 lots, but now will have 36 lots. Ms. Tyson stated that is correct, the previous plan had 43 lots and will now have 36 lots, but they will pick up those remaining lots later on.

- Ms. Weakley stated that she likes the new plan much better because of the less impervious surface and more woods. She stated she has a question about the road. When this plan was brought before the Planning Board previously, there was a question about the wetland and she had asked if there had been a recent stream determination because it shows up on soil survey maps and therefore be connected to what is downstream from it.

Mr. Keith stated that issue came up with the preliminary plat. He stated that the staff did a determination and informed him that this crossing did not require a buffer. Ms. Tyson confirmed that Drew Blake with Watershed Protection Department did go out to the property. Mr. Keith stated that this area is not part of the plan tonight.

- Vice-Chair Lucier stated that there is a request to change the roundabout to a “T” intersection which will eliminate that section of the roadway at this time. Vice-Chair Lucier asked, where is the “T” intersection located? Ms. Tyson referred to the sketch and showed the Planning Board where the roundabout is located and how the “T” intersection will replace the roundabout. This will be addressed in the future.
- There was some discussion about the construction of the road Millcroft and how much of the road will be built. Mr. Sears stated that they need to build part of the road to get to the site and to bring the sewer pipes to the site. Mr. Sears stated that it will take a couple of years to build the road all the way out.
- Mr. Sears had Mr. Sullivan pull up an engineer drawing that Mr. Keith’s office had prepared. Mr. Sears stated that this shows the new street Millcroft extending to Phase 1 to serve the 15 lots. The street will be extended far enough to complete the first cul-de-sac in Phase 1. Mr. Keith wanted to point out that the alignment of Millcroft has not changed from the previous preliminary plat.
- Mr. Arthur asked about some public space on the sketch if it was going to be space for parks. Mr. Sears stated that it is a trail that runs along the street.
- Ms. Weakley stated that they did have dedicated park open space, but now the open space will be on people’s lots. So it is not public open space, but private open space. Mr. Sears stated she was correct. She asked, is the open space ever going to be used as parks? Mr. Sears stated no there will not be any parks and hopes it remains woods.

- There was discussion as to why the plan was changed and the desires of the consumers in the market.

Motion made by Mr. Spoon to approve the request of the Sketch Plan Revision of Fearington – Section X, Areas “D as submitted with the following condition:

Construction of Millcroft not commence until a revision has been approved by the Board of Commissioners to the preliminary plat approved on September 24, 2018 to eliminate the 16 residential lots and to request either a revision to the roadway to change the roundabout to a T-intersection or to eliminate that section of the roadway at this time and have the preliminary plat approval be for the portions of the roadway that will be constructed in conjunction with Area D and to provide either new or updated permits as required from other agencies, i.e. NCDOT, Chatham County Utilities, & Chatham County Watershed Protection.

Motion was second by Mr. Vice-Chair Lucier.

Motion passed unanimously, 7-0

#### VIII. ZONING:

1. A Legislative Public Hearing to consider County-initiated rezonings of 5 parcels in the formerly unzoned portion of Chatham County.

This item was withdrawn by the applicant.

2. A Legislative Public Hearing for a text amendment request for the Chatham County Zoning Ordinance, specifically Section 10.13 Table of Permitted Uses, Churches and other places of worship to be changed from P+ Permitted to be required to obtain an approved Conditional Use Permit in order to locate in R-1, R-2, and R-5 Residential zoning districts.

Ms. Birchett gave an overview of the staff notes and she reported that this item was discussed during the last Planning Board meeting. As a Board you provided the staff with a list of questions to have the County attorney answer and what perimeters we have to work with as far as making it consistent and far across the board. She stated that there are legislative rules that protect religious institutions. What the County attorney states overall is, if we require a CUP just on religious organizations we will run into legislation and federal regulations that protect them. This will be considered an undue burden on the organization. They are protected by the federal government.

- Mr. Spoon asked if the Board can condition the discussion on that the Planning Board will make rules for all assembly places. Chair Siverson stated that she would like to hear from Ms. Birchett and the public input first.

Ms. Birchett stated that one of the questions asked was, can we develop standards for this use. In short, you can, but in doing so you have to consider any type of non-profit, any organization whether it is a church, school, or boys or girls club. This will include Chatham County schools, private schools, and any type of non-profit assembly. Ms. Birchett stated we need to think long term because all the regulations will apply to everyone, even a small organization. There cannot be any leniencies because they are a smaller organization.

Ms. Birchett stated that one of the questions was, “Is it permissible to draft performance standards for assembly uses churches, schools, and non-profit clubs that are allowed by right in residential districts to address some of the issues brought up during the Planning Board discussion? Yes, so long as the standards apply equally to all assembly uses and the standards don’t place an undue burden on the exercise of religion.”

Ms. Birchett stated that the performance standards can be adjusted, but we have to be careful not to show special treatment.

Ms. Birchett stated that another question was, “If it's permissible to draft standards for these uses, are there any guidelines/parameters the board needs to keep in mind? Can the county require that churches are on public roads and/or have some regulations of road width, etc.? Unlikely, again, if the regulations only apply to churches they would most likely violate RLUIPA because the burden of meeting the regulations would not apply to similar uses. The same principles of evaluating potential traffic problems (requiring that the use be on a public road, road width, etc.) would need to apply to all similar assembly uses.”

Ms. Birchett continued with this question and answer. “Is a conditional use permit, rezoning or specific requirements the best way to go? Probably specific requirements for all assembly uses is the best way to go, but this will require further study.”

Ms. Birchett explained that these performance standards will not change anything that is already in place. They will have vested rights and will not have to comply with the standards. Ms. Birchett stated that there are four organizations right now that have worked very hard to get their vesting in and make sure they already have their septic permits approved and site plan approval to get everything done.

Ms. Birchett stated that if a non-religious, non-profit event center were to come into the County, the ordinance would have to be equally applied. Ms. Birchett stated that the staff might be able to strengthen the special event requirements, but those rules will also apply to anyone having a special event. In closing, Ms. Birchett stated that there are a lot of variables that need to be considered for this topic and it is County wide.

- Mr. Sullivan stated that there can't be any regulations added to the special events form. He stated that it is a notification of the special event to the different departments that might need to be involved for the special event. There are environmental health standards, fire code standards, and building code standards that can be enforced, but we can't go above those standards.

### PUBLIC INPUT

- Ms. Anne Fuller of 204 Hogan Farm Rd. spoke and had a couple of comments. She stated that she has lived in Chatham County for 33 years and in her current residence for 27 years. She thanked Ms. Birchett for her information and the hard work the staff and Planning Board were doing about this item. She thanked the Board for considering the text amendment and maybe something can be done for other people down the road. Ms. Fuller asked the Planning Board if they would consider a moratorium on anything that is getting ready to continue. She stated that this is a big item and it needs time for the right language to be said. Ms. Fuller stated that she didn't know if it was a possibility, but her concern is that maybe Phase 2 of the temple is one of the four projects in the works. She asked the staff if she could receive that answer about Phase 2.

Mr. Sullivan stated that Phase 2 is not part of the four other projects. Ms. Fuller stated that she has seen a site plan and was wondering what was going on with it. Ms. Birchett stated that they have a proposed site plan for the back side of the property and they are in the process of combining that all into one lot. That would give them non-conforming vested rights if this item were to be approved.

- Ms. Fuller asked if there could be a moratorium while this is being considered so this can be stopped. Mr. Sullivan stated that there are a lot of issues with their site plan with multiple departments. He also stated that there are not any construction plans in the office for anything additional on the property. Mr. Sullivan stated that they have a number of variables that they need to work with.

- Ms. Fuller asked, if there was not a moratorium put on it, and the text amendment was agreed to in February, would this not be approved? Mr. Sullivan stated that with the combination of the property, if a text amendment were approved that would impact that site plan, then they have non-conforming status just like the mining operation. They could proceed on the existing track of land.
- Mr. Sullivan stated that as far as the moratorium is concerned that would have to be a County attorney question. The moratorium couldn't be for just churches either, it would have to be for non-residential development.

Chair Siverson stated that moratoriums are very difficult and does not believe that the County would want to pursue Vice-Chair Lucier stated that it would include schools, daycare centers, and non-profit organizations, it would not be a good idea to do that given the fact that the County is building two new schools. Vice-Chair Lucier stated that you can't do it for just churches.

- Ms. Fuller asked if the temple could be considered as a public assembly because then it would have to be environmentally safe with public access.
- There was some Board discussion about the traffic involved and the disturbance in a residential neighborhood.
- Vice-Chair Lucier stated that an issue has been raised and the County needs to come up with performance standards for assembly situations. It is complicated and we don't want to cause unwanted problems or unintended consequences. He stated that this is delicate and it may take a few months to complete. Vice-Chair Lucier stated that he would like the Planning Board to ask the staff to look at the issues with a broad scope to include schools and to discuss. He stated that there would also be a public hearing on the proposed standards.
- Ms. Fuller asked the Board if the temple on Hollands Chapel Rd. was able to expand if they were to purchase additional property or were they restricted to the land they currently have like the mining operation. Chair Siverson informed Ms. Fuller that they can expand because they are grandfathered and it is a little different than the mining operation. Ms. Fuller thanked the Planning Board for their consideration.
- Chair Siverson thanked Ms. Fuller for bringing her concerns to the Planning Board and they will make a recommendation that the BOC, Planning Board, and staff develop some standards for all public assemblies.

- Ms. Birchett stated that the staff has already polled the surrounding counties adopted standards for public assembly. She listed some of the differences between the different jurisdictions on their standards. Ms. Weakley pointed out Cary's table of standards. She stated Cary has a whole public intuitional uses section and it has a breakdown of park/open space, religious assembly, educational use, and non-governmental utilities. She stated that these are uses that require special use permits in residential areas. Ms. Weakley stated that something like this would be helpful to review.

Ms. Birchett stated that it is helpful to gain information, but we need to be careful because you are talking about city regulations. It is a lot different being inside of a town and try to apply the same regulations in rural Chatham County. Ms. Weakley pointed out Wake County and their special use permit process for certain types of residential areas and permitted in other residential areas, such as R1 verses R5.

- Mr. Scott Wilson of 640 Hogan Farm Rd. spoke and had a couple of comments. Mr. Wilson stated that as a group of concerned citizens, they were not looking to have a CUP for just churches or any assembly, but rather some special use hearing to be notified. They do not want to cause undue hardship on a small organization. He had mentioned Wake County's regulations about a facility being anything larger than 2,500 square feet and anything smaller wouldn't have to go through a permit process. Mr. Wilson stated concerning the review of the temple's site plan to take a really close look at safety because the curve on Hollands Chapel is very dangerous with many near collisions. If they were to build that temple there will be a lot of cars coming out of there with congestion. He asked that a traffic study be considered when reviewing.
- Ms. Birchett stated that the staff has been working with the temple and they may have all their ideas on this plan, but until they start putting impervious surface down, they may go over their limit. With a building the size they want will require a minimum amount of parking. When measuring impervious surface you are looking at all parking, all structures, sidewalks, and gravel. This might greatly reduce the vision they have on the paper that is drawn.

- Mr. Wilson referred to the moratorium that was placed on the fracking. He asked the Board if there was some way that the moratorium that has already been approved for fracking can be applied in this case. Vice-Chair Lucier stated that the moratorium is expiring at the end of January and was designed for the purpose of oil and gas development. Mr. Wilson stated that he understands and thanked the Board for their time.
- Mr. Phil Foote of 117 Hogan Farm Rd., spoke and had a couple of comments. Mr. Foote asked the Board if there could be something in the standards about population and only “X” amount of people or cars be allowed to access unimproved roads. He stated that if we consider safety for these gravel roads because it is not safe to have 500 cars down a gravel road. He asked, if there is wording about safety and the limit on gravel roads, would that be acceptable?

Ms. Weakley stated that it would be difficult to enforce. We have to be careful how to word the regulations so they can be enforced. Mr. Arthur stated that with a CUP we could require only a certain amount parking spaces, but we can’t regulate traffic. Vice-Chair Lucier stated that these are some of the things we need to think about when developing performance standards.

- Mr. Foote referenced an article from Pew Research Center about the decline in attendance of all religious services. He also referenced an article about a temple in India and how the temple, due to the apathy of its devotees, is dilapidated. He asked, what happens in 20 to 25 years and interest fades in this facility, does it have to be maintained, or can it be left to fall in on itself? Chair Siverson stated that it is private property. Vice-Chair Lucier stated that it could be condemned.
- Mr. Foote reference an article about a Planning Department in Forsyth County Georgia that said no to a Hindu temple near a lake. Mr. Foote compared this temple to the current temple on Hollands Chapel Rd. He stated that the biggest concerns from the residents in Georgia was the amount of traffic. Mr. Foote also reference an article from the Washington Post about this issue is not about religion, race, or immigration. The concern is parking and traffic. He stated that this issue has been addressed in other parts of the country.

Mr. Spoon stated that the difference is, they had a mechanism in place to stop it. Chatham County doesn’t currently have that in place, but we are going to work to address it. Chair Siverson stated that they must have had a mechanism to deny it and not have legal ramifications behind it. Mr. Foote stated that there was a lawsuit claiming religious freedoms were threatened. Mr. Spoon stated that is



what we are trying to avoid. Mr. Foote stated it doesn't matter that it is a temple, he just doesn't want the traffic. Vice-Chair Lucier stated that we understand it is not a religious issue, but a quality of life issue.

- Mr. Foote stated that he had to position his truck across his driveway as a barrier because his handicapped sister was outside and one of the temple devotees was out of their car asking my sister with Down Syndrome where the temple was. Ms. Weakley stated that he should post no trespassing signs on his property. Mr. Foote stated that he does have trespassing signs. Ms. Weakley stated that he has the right to call the police at that point if there is someone trespassing with posted signs.
- Chair Siverson asked if there are good, visible signs posted for the temple. Mr. Foote stated that they have two signs, but they are small. Ms. Birchett stated that they are trying to get permits for a permanent sign.
- Mr. Sullivan stated that with private roads the citizens have more control than the government by having a restrictive covenant. See what you can do with a restrictive covenant. It is up to the citizens in the development to enforce the covenant. There was some Board discussion as to how the citizens could form a Home Owners Association and contact an attorney to have a restrictive covenant. Mr. Wilson stated that he has researched that and the temple would be grandfathered because it would be adopted after they were there.
- There was Board discussion about how there needs to be adopted performance standards and there is a lot of information where they can be pointed in the right direction for fair performance standards throughout the County.
- Mr. Jim Cassese of 279 Hogan Farm Rd. spoke and had a couple of comments. Mr. Cassese stated that he has learned a lot in the past six months about government and he thanked the Board for what they do and has a lot of respect for them. He stated that he passed a Boy Scouts of America that housed 400 Boy Scouts, but it was on a two lane highway it was not in a neighborhood, but next to restaurants and businesses. He stated that they're not trying to say churches or any large assembly can't exist, it can exist with a CUP and with the right controls in place. He stated that part of those controls should be the residents that live there should have a say in it. Mr. Cassese stated that he was listening to the different regulations that can be in place without a CUP, but without the residents input it is not enough. People that have been living there for

30 or 40 years should have a say in something new that is coming there that wasn't there when they bought their home.

Mr. Frazier stated that he understands what he wants, but the reason the Board keeps talking about performance standards is because they are more likely to be legally acceptable. Mr. Cassese asked, how did other counties institute Conditional Use Permits legally? Chair Siverson stated that they apply it broadly to all different kinds of uses. Mr. Cassese asked if that would be a different application he would have to file. Chair Siverson stated yes, that it would be a whole other request. She stated that might be hard to get through because this is a very large county and a lot of assemblies would be effected.

- Mr. Cassese asked, what is the fear of a CUP? He stated that he has successfully opened two businesses in Cary. He said there are hurdles to cross, but it can be done; it is not impossible. Vice-Chair Lucier stated that it is a lot easier when you are doing something that is already consistent with that zoning, whereas in this case it is a more complicated issue.
- Mr. Cassese handed out the temple's site plan to the Planning Board and staff. Mr. Sullivan stated that this is not an approved site plan. Mr. Cassese stated that he understands that it is not official, but it has been in the works for a year and this is the first he is hearing about it. He has not received a phone call, letter, or and e-mail about the plan that is happening right next to his house.

Ms. Birchett stated that this is not an official site plan that gets reviewed to see if they meet the current standards and current regulations, this is just the vision in their head. Mr. Cassese asked, if there was a CUP process, I would have been mailed a letter letting me know about this. Ms. Birchett stated, yes. Mr. Cassese stated that is all he is asking for, some kind of notice.

- Chair Siverson stated that the Board understands and wishes the Board could give him that, but it is more complicated than that. She did inform him that there will be public hearings for their input when new standards are proposed. Ms. Weakley encouraged his to sign up for notifications of Planning Board and BOC meetings to stay up to date.
- Mr. Roland Cargill of 15 Cargill Ln. spoke and had a couple of comments. Mr. Cargill stated the important issue for him about the amendment is that there needs to be input prior to decision making. Right now, the situation they are in now, there was no process in place for their input and no public hearing for

people impacted by these types of actions. The people that are impacted by these types of actions should have a way to provide input. He stated that without that avenue, this is going to continue to go on in the County. He stated that he is in favor of the amendment because it is about a public place being brought into a rural private neighborhood. As Chatham County grows, this is not going to go away and there are going to be other developments that will be facing the same thing we have. The people that are impacted need to have a forum to be heard and present their concerns. Mr. Cargill stated that if the temple is allowed to be built it will have monumental consequences. He stated that there has been very poor communication with the people from the temple and they want to run a road down my property line and that is not acceptable. He thanked the Board for their time and consideration.

- Mr. Wilson stated that he understands that what has been purposed for the text amendment the County believes that it might be viewed as discrimination. He asked, do they need to come back with different wording, or is that something that the County and the Planning Staff will work on now that they see this is an issue throughout the County. Chair Siverson stated that is something that the BOC would have to initiate as a text amendment.

Vice-Chair Lucier stated that he believes the Planning Board will recommend to the Commissioners that they not initiate this text amendment. He stated that they are the decision making body and that the Planning Board is the recommendation body. Mr. Wilson asked if they should trust that something will be done or should they file another text change. Vice-Chair Lucier stated that this topic and what you have served to do, has activated the Chatham County government to do something. Chair Siverson stated that there are already four other projects happening and that is just the beginning.

- Mr. Greg McGee a neighbor of the Hogan Farm Rd. neighborhood spoke and had a couple of comments. He stated that there has been some good constructive comments tonight. He wanted to point out some of the violations of the zoning ordinance that has already happened. Mr. McGee stated section 9.6 of the Chatham County Zoning Ordinance, a non-conforming use of a single family home. Table 1 in section 10.3, does not show a meeting hall as a permitted use. He stated that the lighting ordinance has been violated in section 11.2. Off street parking rules 14.1, in their events they park on our property and on our road, it is unsafe. He continued saying section 17, has impaired the integrity and character of our community and detrimental to the health, safety and welfare of the community. Mr. McGee stated he would appreciate it if they looked those zoning ordinances up.

- Chair Siverson stated that we have heard from the public and have all of the questions answered from the County Attorney. She stated that it is pretty clear that this proposed amendment would put the County in legal jeopardy. He asked the fellow Board members their thoughts.
- There was some Board discussion about denying the request, but make the recommendation to the Commissioners to explore performance standards for assembly type settings to include residential areas. Vice-Chair Lucier stated that they still should consider the CUP process as well because there have been some good points brought up from the people impacted. Vice-Chair Lucier stated that it might be a two-step process. One, to formally deny this text amendment, but then acknowledge that it has raised an important issue in the County and have a recommendation to the BOC about ways of preventing, the best we can, similar situations from happening again.
- Mr. Sullivan asked Ms. Weakley to send the different ideas and information that she has already been writing down during the meeting. He stated that the reason why they as staff had already pulled together regulations from other jurisdictions is because staff had anticipated the text amendment might go this way. This information is a good starting point. Ms. Weakley stated that Wake and Durham counties, and Cary, seem to have the best combination of special use permit and performance standards for residential areas.
- Mr. Spoon asked if the Board would like his draft language for a text amendment for the BOC to consider. Chair Siverson stated that he can send it for them to consider.

Motion made by Vice-Chair Lucier to deny the request for the Table of Permitted Uses, Churches and other places of worship to be changed from Permitted to be required to obtain an approved Conditional Use Permit. This request is denied because of the advice from legal counsel that it will be discriminatory towards churches and places of worship; second by Mr. Frazier.

Motion passed unanimously, 7-0

Motion made by Vice-Chair Lucier to approve the consistency statement that the text amendment singles out churches and places of worship by requiring a Conditional Use Permit where other assembly type settings would not require a Conditional Use Permit and is therefore not consistent with the adopted Comprehensive Land Use Plan of Chatham County. Chatham County cannot discriminate against churches and places of worship or violate the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA); second by Mr. Wilson.

Motion passed unanimously, 7-0

Motion made by Vice-Chair Lucier to ask the Board of Commissioners to direct the Planning Department to look at performance standards for churches, places of worship, schools, and other general assembly uses, including non-profit organizations. To also explore requiring Conditional Use Permits for churches, places of worship, schools, and other general assembly uses, including non-profit organizations; second by Mr. Arthur.

Motion passed unanimously, 7-0

IX. NEW BUSINESS:

X. BOARD MEMBERS ITEMS:

1. Update from the Planning Board liaisons.
- Vice-Chair Lucier stated that he was unable to attend the Pittsboro Planning Board meeting.
- Chair Siverson stated that there was not a Siler City Planning Board meeting this week.
- Ms. Weakley stated that the Chatham Conservation Partnership will have a meeting on January 17<sup>th</sup> from 9 to 12pm. The preliminary

topic is Habitat Fragmentation and what current local governments and their land use plans and ordinances have to protect the habitat. Mr. Sullivan and Mr. Haffele the GIS representative will be in attendance and will have a demonstration.

XI. PLANNING DIRECTOR'S REPORTS:

Mr. Sullivan reported on the following:

1. *Minor Subdivisions/Exempt Maps* - Information was included in tonight's agenda packet for your review.
2. *Mr. Sullivan stated as a reminder about the election of the Chair and Vice-Chair is held in February. He stated that there is one vacancy on the Planning Board and we can wait for the election once we have a full Board.*
3. *Mr. Sullivan informed the Board that on January 22<sup>nd</sup> there is going to be two Legislative Public Hearings and one Quasi-Judicial Public Hearing for zoning requests.*
4. *Mr. Sullivan stated that Mr. Garrett worked with MIS to get a new projector for the meeting room.*

- Chair Siverson stated that she is going to write up a report on the oil and gas exploration item that will be at the BOC on January 22<sup>nd</sup>. Mr. Sullivan offered Chair Siverson to speak at the BOC.

XII. ADJOURNMENT:

There being no further business, the meeting adjourned at 8:59 p.m.

Signed: \_\_\_\_\_ / \_\_\_\_\_  
                Caroline Siverson, Chair    Date

Attest:  
\_\_\_\_\_ / \_\_\_\_\_  
                Daniel Garrett, Clerk to the Board    Date