



**Chatham County Planning Board
Approved Minutes
February 5, 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
Clyde Frazier
Jon Spoon
Cecil Wilson
Bill Arthur
Franklin Gomez Flores
Emily Moose
Gene Galin

Absent:

Allison Weakley
Jamie Hager

Planning Department:

Jason Sullivan, Planning Director
Angela Birchett, Planner II/Zoning Administrator
Dan Garrett, Clerk to the Planning 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). Ms. Weakley and Ms. Hager were absent.

Chair Siverson introduced the newest appointed Planning Board member Mr. Gomez Flores.

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, second by Ms. Moose.

Motion passed 9-0 and the agenda was approved.

V. APPROVAL OF THE MINUTES:

Chair Siverson asked for consideration of a request for approval of the January 8, 2019 minutes. There were no objections by Board members and the January 8, 2019 minutes were approved.

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

Motion passed 7-0, Ms. Moose and Mr. Gomez Flores did not vote on the minutes because they were absent during the January 8, 2019 Planning Board meeting.

VI. PUBLIC INPUT SESSION:

- Chair Siverson instructed the public that if they signed up to speak they will be called by name and to approach the podium, speak clearly and keep the comments to three minutes.
- Mr. Doug Roberts of 650 Half Dollar Rd spoke and had some comments. Mr. Roberts stated that his sister lives at 577 Half Dollar Rd and is his adjoining property. Mr. Roberts stated that he and his sister have studied the latest plan for Briar Chapel Phase 12 and they don't dislike it. He stated that the only thing that he would like for the developer to add, is the public turnaround inside his private property be removed to the outside of the property. Mr. Roberts stated that it is a public nuisance to them. He also stated that this is a security problem both day and night. Mr. Roberts stated that the other issue is the building of the cul-de-sac. When it was done in 2007 the rear left tip of it is inside the 50' riparian buffer. He stated that the buffer is where their spring house is located. He said that there is high ground above their spring house, so regardless of the setback, stormwater runoff drains into their ground water and spring house.

Mr. Roberts stated the cul-de-sac is an anomaly and is not what it was intended for. He said that his mother signed the Right-of-Way agreement because she had a dirt road to get to her home and was in favor of the new road. Mr. Roberts stated that in 2001 there was an agreement with Newland Communities which states that any of the Right-of-Way on Half Dollar Rd, the residents don't have to purchase them. However, that shouldn't mean six years later a scheme and a plan forms to run elderly people off their property so they can acquire it.

Mr. Roberts stated that over the past two and a half years he has been in communication via text messages, phone conversations, and e-mails with Lee Bowman. He asked that the turnaround be built outside his property. He also stated that they signed a memorandum of understanding, agreeing to give them immunity for ruining their water and immunity for any problem that evolves from the building of the cul-de-sac. Mr. Roberts stated that on the dam side of their pond, there is a riparian buffer violation of more than 25'. He stated that his pond has been contaminated for the past couple weeks. He said he will provide pictures showing that his pond is solid green. Mr. Roberts stated that they built a stormwater pond on the other side of his pond and he is positive this has caused the contamination.

Mr. Roberts stated that on this current plan there is a buffer on the tip of his sister's land and it is on his sister's land, not their land. Lastly, Mr. Roberts asked for no more detonations. They have detonated three times and it is shaking everything. Mr. Roberts thanked the Planning Board.

- Ms. Billie Medlin of 220 Half Dollar Rd spoke and had some comments. Ms. Medlin stated that she is 92 years old and has lived on her family farm for 86 years. She asked Mr. Juarez to speak for her with the following comments. Mr. Juarez of 242 Half Dollar Rd spoke on behalf of Ms. Medlin stating that Briar Chapel has prepared for the first review of Phase 12 and has provided a plan that reflects the citizens input. The plan also provides a compromise that avoids a connection with Half Dollar Rd which was broadly requested. Mr. Juarez stated that engineer experts have reviewed the buffer and watershed elements that support the NCDOT approved plan. He looks forward to the Board's comments and the continued support for no connection to Half Dollar Rd. Mr. Juarez thanked the Board.
- Ms. Jan Hutton of 120 Willow Way spoke and had a few comments. Ms. Hutton stated that she is the president of the Chatham Development Homeowners association. Her neighborhood was built 48 years ago, has 136 homes, and no sidewalks. When they heard that the initial Phase 12 proposal appeared to open Half Dollar Rd. to Briar Chapel traffic, there was great concern, focused primarily on safety and changing the culture of their slow-paced neighborhood. The proposal would have had traffic exiting through their neighborhood, to Manns Chapel Rd. However, they were very fortunate to have great citizen engagement

from the homeowners, nearby homeowners, and other proximate long-standing neighborhoods. The current Phase 12 proposal shows no Briar Chapel roads connecting to Half Dollar. For this, they are very grateful. She thanked Lee Bowman. In closing, Ms. Hutton stated that the neighbors have learned that citizen advocacy can make a difference, and that's a gift.

VII. SUBDIVISION:

1. Request by Lee Bowman, Project Manager, on behalf of NNP Briar Chapel, LLC for subdivision **Preliminary Plat** review and approval of **Briar Chapel, Phase 13, Section 3**, consisting of 59 lots on 15.80 acres, located off Great Ridge Parkway, SR-1692, Baldwin Township, parcel #2617.

Mr. Sullivan gave an overview of the staff notes and he reported that the request before the Board is for subdivision preliminary plat review and approval of Briar Chapel, Phase 13 Section 3, consisting of 59 lots on 15.80 acres. The lots will be accessed by a state maintained road connecting to Great Ridge Parkway. There are no alleyways proposed and no additional parking in this phase. NCDOT reviewed the road plans for Phase 13, Sections 3. There are two stormwater BMPs located in Phase 13, Section 3. A note shall be placed on the final plat stating the maintenance responsibility of the stormwater features. There is a stream, Pokeberry Creek, shown on the site plan along with the required 100 foot per side riparian buffers. The stream is located within a common area and there are two retaining walls shown on the construction plan within the common area.

Mr. Sullivan continued by stating that County water is available and will be utilized. The lots will be served by the private waste water treatment plant that serves Briar Chapel. Per the application there are no cemeteries or structures eligible for the National Register within the project area of Phase 13, Section 3 nor any structures or cemeteries 50 years old or older. The TRC met on January 16, 2019 to review the request. Chris Seamster, RLA, McKim & Creed was present to represent the developer. John Strowd, North Chatham Fire Chief was thankful there were no alleyways in this phase. Chief Strowd and Tom Bender, Chatham County Fire Marshal both had concerns with people parking in the road and ignoring the 'no parking signs'. Mr. Bender expressed concern that there will be delays because of the obstructions in the road in the event of an emergency response. There was a brief discussion about the 100' perimeter buffer, retaining walls, and who will be the home builder for the phase. Rachael Thorn, Watershed Protection Director, and Larry Bridges, Public Works Administration Director, had no concerns. It is staff opinion that the application meets the requirements of the Subdivision Regulations for preliminary plat review.

Mr. Sullivan stated in closing that the Planning Department recommends granting approval of the road name Monteith and granting preliminary plat approval of Briar Chapel, Phase 13 – Section 3 with the following conditions:

1. The final plat shall include the approximate location of the BMP using top of bank of existing feature (no pipes or risers); the BMP maintenance easement be labeled and shown as 'private' with a minimum of 10 feet clearance; and the location of the access to the stormwater easement from the public right-of-way.
2. A note shall be placed on the final plat stating the maintenance responsibility of the stormwater features.

Mr. Sullivan said that Mr. Bowman and Mr. Seamster were available to answer questions for the Planning Board.

Board Discussion followed and some items discussed were as follows:

- Vice-Chair Lucier asked about the location of parking in this phase. Mr. Sullivan stated that there is no additional on-street parking in this phase. Any street parking that would occur is on one side of the road or the other depending on the month matching the lot address. There is accommodated parking on each individual lot.
- Mr. Spoon asked what happens if there is a home with many guests. Mr. Sullivan stated that would be an issue for the HOA on enforcement of the parking requirements.
- Vice-Chair Lucier stated that it looks like the total buffer is 116 feet. Mr. Sullivan stated yes, they are including the width of the water feature and 50 feet either side with a 10 foot no build area outside the 50 foot buffer of either side of the water feature.
- Mr. Spoon asked how tall the retaining walls will be. Mr. Seamster stated that the retaining wall on the northeast side of the phase will be 6' to 7' at its highest in the middle. It gradually goes from 2' up to 7' and then back down. This is to flatten out the lot and to tieback the grade before the perimeter buffer. Mr. Seamster stated that the other wall is a longer wall and it varies in height, but the tallest part of the retaining wall will be 8' to 12' tall.

Mr. Spoon asked if there were any close neighbors that were going to get a view of the new retaining wall. Mr. Seamster stated he didn't think so because there is a 110' riparian buffer.

- Mr. Spoon stated that he is curious how it will be handled if someone has a few friends over and there are 5 cars that need to be parked. Mr. Bowman stated that they will be following the same rules that were established about two years ago regarding on-street parking that has worked pretty well. Mr. Bowman stated that they have worked with the Planning Department and Fire Marshal office to come up with the plan with alternating side parking on the street. The parking alternates either side of the street depending on the month.
- Vice-Chair Lucier asked, how wide is the road that will serve these lots? Mr. Seamster stated that it is the standard road 27' back to back and 40' Right-of-way.

Chair Siverson asked, how do guests know what side of the road to park on? Mr. Bowman stated that the residents will instruct them.

- Mr. Frazier asked, what is the difference between permanent, private, and public drainage easement? Mr. Seamster stated that typically the public easement is drainage in the public Right-of-Way and the DOT maintain those easements. Private drainage easements are located between lots and allow water from one lot to the next to flow without obstructions. Mr. Seamster stated that there is a reviewer at the DOT and they started asking them to refer to public easement as permanent easement. These terms are interchangeable and that is why you see both on the plan.
- Ms. Moose asked, how frequently does the HOA have to enforce the parking issues? Mr. Bowman stated that it is an ongoing process. There is a company that comes out to monitor the parking, plus staff and the HOA monitors as well. If there is an issue they try to get it resolved right away without having to tow. Mr. Bowman stated that about 18 months the plan has been formalized and there have been 5 tows. Mr. Browne stated that the threat of towing has been very effective.

Chair Siverson asked if there were towing signs posted. Mr. Bowman stated that they have signage on the collector roads and main thoroughfares where there is no parking allowed, but in the neighborhood roads there is no signage.

Motion made by Vice-Cahir Lucier with the two conditions; motion was second by Mr. Galin.

Motion passed unanimously, 9-0

2. Request by Lee Bowman, Project Manager, on behalf of NNP Briar Chapel, LLC for subdivision **Preliminary Plat** review and approval of **Briar Chapel, Phase 12**, consisting of 134 lots on 36.19 acres, located off Great Ridge Parkway, SR-1692, Baldwin Township, parcels #80420, 80418, 87088, 88053.

Mr. Sullivan gave an overview of the staff notes and he reported that the request before the Board is for subdivision preliminary plat review and approval of Briar Chapel, Phase 12, consisting of 134 lots on 36.19 acres. There are alleyways and on-street parking located within the phase. The lots will be accessed by state maintained roads that will connect to Great Ridge Parkway. There are three public roads, two alleyways proposed and Thirty-four on-street parking. NCDOT has reviewed and approved the construction plans for Phase 12. County water is available and will be utilized. The lots will be served by the private waste water treatment plant. Per the application there are no cemeteries or structures eligible for the National Register within the project area of Phase 12 nor any structures or cemeteries 50 years old or older.

Mr. Sullivan continued stating the stormwater best management practices are located outside the 10' no-build area, riparian buffers and special flood hazard areas. A note will need to be placed on the final plat stating the maintenance responsibility of the stormwater features. There are multiple streams shown on the overall site plan and the required 50 foot per side riparian buffers and 10' no-build setbacks are provided. Both the 100- and 500-year flood lines are shown on the overall site plan, although the Flood Damage Prevention Ordinance standards only apply to the 100' floodplain. The streams are also located within common areas.

Mr. Sullivan also stated that the TRC met on January 16, 2019 to review the request. Chris Seamster, RLA, McKim & Creed was present to represent the developer. Mr. Seamster explained there are steep slopes on the north portion of Section 3 and an alleyway was needed. This phase has a mix of front- and rear-loaded lots. It was noted that the stormwater BMPs are outside the 100 year floodplain. There is no connection to Half Dollar Road, which was a concern raised by several residents in the surrounding community, and a 50' voluntary buffer has been provided adjacent to the Robert's property. There was a brief discussion about the Mills Gap Road, and whether it connects to Great Ridge Parkway, which it does not. Chief John Strowd asked if the developer would widen the alleyway by Lot 2218 to improve fire vehicle access and Mr. Seamster stated they would make the area wider. Tom Bender, Chatham County Fire Marshal, had concerns about the road radius by Lot 2167 on Chauncey Circle and asked if it had been checked for emergency access.

Mr. Sullivan continued by saying that Mr. Seamster stated he didn't believe the area was tested, but it's the standard road design a 30' radius and can be widened if needed. There was a brief discussion about drainage to a neighboring property and if there will be berms placed in the area. Mr. Seamster stated no berms will be placed because of the slopes and no drainage will go to the neighboring property. It is staff opinion that the application meets the requirements of the Subdivision Regulations for preliminary plat review.

Mr. Sullivan stated in closing that the Planning Department recommends granting approval of the road names Vandalia Avenue, Chauncey Circle, Copper Leaf Avenue, Twin Leaf Street, and Mills Gap Road and granting preliminary plat approval of Briar Chapel, Phase 12 with the following conditions:

1. The final plat shall include the approximate location of the BMP using top of bank of existing feature (no pipes or risers); the BMP maintenance easement be labeled and shown as 'private' with a minimum of 10 feet clearance; and the location of the access to the stormwater easement from the public right-of-way.
2. A note shall be placed on the final plat stating the maintenance responsibility of the stormwater features.

Mr. Sullivan said that Mr. Bowman and Mr. Seamster were available to answer questions for the Planning Board.

Board Discussion followed and some items discussed were as follows:

- Mr. Galin asked, what was the expectation for parking in the alleyways behind the houses? Mr. Bowman stated that they do not allow parking on the alley at all. Mr. Galin also asked if the parking for those homes will have access to parking from the alleyway. Mr. Bowman stated that yes, there is garage or parking pad access from the rear of the property from the alleyway.
- Mr. Galin asked if the Fire Marshal is okay with the alleyways. Mr. Sullivan stated that the fire department will not be fighting a fire from the alleyways because there are no water lines in those areas. The fire department would be fighting a fire from the public roadway. If there is a large fire, they would need to be able to get the large ladder truck to the site and deploy the outriggers. This is why there is so much concern for the parking standards and provisions for being enforced. Mr. Sullivan stated that the fire department can fight a small fire from the alleyway with smaller vehicles.
- Mr. Galin asked what the developers were proposing for the extreme tight turn within the development. Mr. Seamster stated that at the TRC meeting Chief Bender and Chief Strowd had concerns about that turn as well. Mr. Seamster stated that they agreed and plan to broaden the radius of the turn to allow it to be more useable.

- Mr. Sullivan informed the Board that there are 34 on-street parking spots in this phase in three different locations. He started to speak about the cul-de-sac that was on Mr. Roberts' property and pulled up the GIS application on the overhead projector for the Board to see this property. Mr. Sullivan showed the Board that Half Dollar road terminates in a cul-de-sac and is a NCDOT maintained road. He stated that there was some discussion between Mr. Roberts and Newland about the possibility of relocating the cul-de-sac and pulling it back. Mr. Sullivan informed the Board that is not part of the CUP process. Those would be private conversations and is not tied to the approval of this phase because Newland is not making any improvements to Half Dollar road or connecting to the road. Mr. Sullivan stated it is possible to move the cul-de-sac back, but it will require someone to engineer it. NCDOT has made it clear they will not just let the road terminate, there needs to be a cul-de-sac for a turnaround. Mr. Sullivan also stated that the issue between the cul-de-sac and the well would have to be resolved between Mr. Roberts and NCDOT.
- Mr. Spoon asked about the anticipated speed limit on the roads within this phase. Mr. Bowman stated that the neighborhood speed limit is 25 mph.
- Mr. Spoon asked what the buffer area will consist of between the alleyway and Half Dollar Rd. Mr. Seamster stated that it will be wooded except where they need to tie the graded slope.
- Mr. Spoon asked the developer if all the neighbors were happy with the process and was Briar Chapel listening to their concerns. Chair Siverson asked if there were any adjacent property owners present that would like to comment on Mr. Spoon's question.

Mr. Sterling Hasen of 422 N Serenity Hill Circle spoke and stated that he was happy with the stormwater pond that is near his home.

- Vice-Chair Lucier asked, how wide are the lots on Twin Leaf St. and are they going to be attached or detached housing? Mr. Seamster stated that they are going to be detached housing, and the lots are 26' and 32' wide with 3' minimum between the homes.
- Ms. Maureen O'Rourke of 119 Willow Way spoke and stated that her concern is about how many houses will be located near the cul-de-sac. She stated to the Board when is enough, enough. She said that the Board seems very agreeable to everything that is going on, but she would like to see someone stand up to this. The developers just want to keep building and the Board seems to just keep saying okay. Ms. O'Rourke stated it would be nice to just say no to Briar Chapel. She also

asked if it is possible to get a copy of the covenant for Briar Chapel. Mr. Sullivan stated that is a recorded document, and it is located on the Register of Deeds website. Mr. Hasen informed that it is also on the Briar Chapel website.

- Chair Siverson informed Ms. O'Rourke that this Briar Chapel development has been approved since 2005.

Vice-Chair Lucier stated that when it was approved back in 2005 it was approved for 2500 dwellings on 1589 acres. They can't exceed that number of houses, but they are allowed to go up to 2650 for apartments that would be in the commercial area by Hwy 15/501. Ms. O'Rourke stated she was just concerned about the density. Vice-Chair Lucier stated that the Board understands her concerns.

Ms. Moose stated that it was worth noting that a number of the Planning Board members did vote against raising the cap on the number of units.

- Chair Siverson asked if there was going to be a park space on Chauncey Circle. Mr. Bowman stated that yes that will be open space, landscaped area, or active program.
- Chair Siverson asked if there was disturbance in the 50' buffer near the Roberts' property, will the developer be replanting that area. Mr. Bowman stated that the plan is that area would be used for any managing of dirt, such as berming with an even taller buffer and then planting on top of that.
- Mr. Galin asked if Mr. Roberts could voice his concerns now that the plan is before the Board. Mr. Galin asked him what he feels uncomfortable about with this current phase. Mr. Roberts stated that he is concerned with the density and all the people that are coming down Half Dollar Rd for no reason. He stated that the public turnaround should not be on anybody's property. He also stated that stormwater pond is contaminating their pond on the property and a riparian buffer violation of 25' to 35' within the buffer. In closing his biggest concern is the turnaround on his property.

Ms. Moose asked if he has spoken to NCDOT about this matter. Mr. Roberts stated that he has spoken with DOT, and they understand the problem. They want to abandon Half Dollar Rd where it comes down and starts to make a sharp turn. Mr. Roberts stated that if the cul-de-sac was located right there in the tight turn, it would not be a problem. Mr. Roberts stated that the stormwater runoff of the cul-de-sac should run south, but it is running straight down into his property and the spring house water.

Vice-Chair Lucier stated that Chatham County probably has no problem with DOT abandoning Half Dollar Rd that runs into the property. Vice-Chair Lucier stated that the cul-de-sac is not part of this project and this action. He stated that he understands his concern with heightened traffic and people becoming lost and turning around in the cul-de-sac.

Motion made by Mr. Spoon with the two conditions; motion was seconded by Mr. Wilson.

- Ms. Moose stated that she sympathizes with the neighbors, and she was glad that there was a resolution and everyone is reasonably happy. She also stated that she will remember the concern about the density for future requests to raise the cap.
- Chair Siverson thanked Briar Chapel for listening to the neighbors working on a compromise and making the adjustments.

Motion passed unanimously, 9-0

VIII. ZONING:

1. A Legislative public hearing for general use rezoning request by Roy Brooks to rezone a portion (3.4 acres out of 19.9 acre tract) of Parcel No. 76558, from R-1 Residential to IL Light Industrial, located at 6814 Beaver Creek Road, Cape Fear Township.

Ms. Birchett gave an overview of the staff notes and she reported that a legislative public hearing was held on January 22, 2019. Planning staff presented the request and no-one signed up to speak. The applicant was present, but there were no questions for the applicant.

Ms. Birchett continued that Mr. Brooks has operated a machine shop in the county for over 20 years and obtained a Home Occupation Permit (HOP) for the machine shop to make parts for engines and firearms. The HOP was issued on November 5, 1997 on parcel 63859, which adjoins the property under consideration for rezoning. Since that time the business has continued to grow and the need for a separate shop is needed to expand the business thus prompting this request. Due to square footage limits on accessory buildings that can be used for a HOP, a recombination of the property and modification of the HOP is not an option.

Mr. Birchett also stated that there have been no issues, violations, or complaints received by the Planning Department on this property or the business. The owner has obtained required fire inspections every two years based on a review of county records and no violations were noted.

Ms. Birchett continued stating that the property is currently zoned R-1 Residential. The immediate surrounding property includes residential on each side, heavy industrial directly across Old US 1, and a non-conforming, permitted saw mill to the northwest. Within one mile are heavy industrial zoned properties, as well as business. The property is in close proximity to the US 1 interchange and fronts on Old US 1 where the bulk of heavy truck traffic travels between Chatham and Wake counties from US 1.

Ms. Birchett stated that the property is located within the Local Watershed designation (LWA) and is not within the Jordan Lake Buffer Rule area. The limit on built upon area is 36% without curb and gutter and without an approved Special Non-Residential Intensity Allocation (SNIA), which could allow up to 70% impervious surface. The applicant is requesting to rezone a 3.4 acre portion of the 19.9 acre tract.

Ms. Birchett continued by stating that in considering a general use rezoning request, Section 19 of the Chatham County Zoning Ordinance states the four standards must be addressed and supported in order to be approved for the intended zoning designation change. The standards are:

Standard No 1 – The alleged error in this Ordinance, if any, which would be remedied by the proposed amendment is: No error in the ordinance is being alleged. Machine shops and Light manufacturing or processing not otherwise named herein are both Permitted uses for Light Industrial zoning. Please note that this is a general use rezoning request and if approved any of the uses that are allowed by right in the Light Industrial zoning district could locate on the property. It is planning staff opinion this standard has been met.

Standard No 2 – The changed or changing conditions, if any, in the area or in the County generally, which make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare are: This business has been in operation for over 20 years under a Home Occupation Permit. Based on the growth of the business, the applicant needs to expand to better serve his current and future customers. The applicant has been a good steward of his current business and there have been no issues or complaints received on the current site.

There are numerous properties within close proximity to the property under consideration for rezoning to Light Industrial that are zoned Heavy Industrial. The applicant will continue to live on the adjacent property where he has operated under a HOP since 1997. It is planning staff opinion this standard has been met.

Standard No 3 – The manner in which the proposed amendment will carry out the intent and purpose of the adopted land use plan, or part thereof is:

The Future Land Use and Conservation Plan Map identifies this area as Rural an Employment Center node located within close proximity. The Rural designation supports low density residential, supporting service uses, and home based & small scale business. Under the Economic Development Plan Element of Plan Chatham, Strategy 4.4 states

“Permit existing commercial and industrial uses that are appropriately zoned to continue to operate, and allow for reasonable expansion, contingent upon meeting environmental and transportation requirements.” **It is planning staff opinion the standard is supported under Strategy 4.4 of the Economic Development Plan Element.**

Standard No. 4 – All other circumstances, factors, and reasons which the applicant offers in support of the proposed amendment are: The site will be accessed by Old US 1 with an approved commercial driveway permit required from NCDOT. Additionally, the applicant plans to utilize a 20 Kw solar production system in order to offer a carbon neutral building.

The applicant has restricted the size of the proposed rezoning in order to preserve the look and feel of the rural landscape. If the rezoning is approved a site plan will have to be reviewed by the Chatham County Appearance Commission to ensure that the county’s design guidelines are met. It is planning staff opinion this standard has been met.

Ms. Birchett stated that it is planning staff opinion that the rezoning application is consistent with the adopted comprehensive plan and that the rezoning should be approved.

Ms. Birchett stated in closing that the planning staff recommends approval of the general use rezoning request. The Planning Board has up to three meetings in which to make a recommendation for approval or denial to the Board of Commissioners.

A proposed consistency statement has been provided below in support of the rezoning request:

It is the Planning Board recommendation that the rezoning is consistent with Plan Chatham under the Economic Development Plan Element, Strategy 4.4 which states “Permit existing commercial and industrial uses that are appropriately zoned to continue to operate, and allow for reasonable expansion, contingent upon meeting environmental and transportation requirements.”

Ms. Birchett said that the applicant Mr. Brooks is available to answer questions for the Planning Board.

Board Discussion followed and some items discussed were as follows:

- Mr. Arthur asked Mr. Sullivan if he could pull up the map with the different zoning areas. Ms. Birchett explained that the red area is R1 residential and the green area is heavy industrial, CUP heavy industrial, or CUP B1. Mr. Sullivan stated that there is a large area around this property that is heavy industrial.

Mr. Arthur asked if this is an area in the Comprehensive Plan that is okay to be rezoned to light industrial. Ms. Birchett stated that it is supportive of home-based businesses and small-scale businesses. Mr. Sullivan stated that the Future Land

Use map says that this area is not appropriate for light industrial, but that is why there is a note in the Comprehensive Plan about not strictly using the map as the only tool when considering a rezoning. Mr. Sullivan stated that is why you see the standard is supported under Strategy 4.4 of the Economic Development Plan Element. He gave an example, if this was just a piece of property that someone had bought and then wanted to rezone to light industrial to operate a business, but the business is currently somewhere else. That might be where you would say this is not appropriate and rely more on the map.

- Mr. Spoon stated that he was in the pre-application meeting, and Mr. Brooks is doing business as he should and the neighbors have been fine for 20 years. Mr. Spoon stated that it is good to see business owners to come forward with an application and go through the process and do it right. Mr. Spoon does not see any reason to deny this rezoning.

Motion made by Mr. Spoon to approve the consistency statement; second by Mr. Wilson.

It is the Planning Board recommendation that the rezoning is consistent with Plan Chatham under the Economic Development Plan Element, Strategy 4.4 which states “Permit existing commercial and industrial uses that are appropriately zoned to continue to operate, and allow for reasonable expansion, contingent upon meeting environmental and transportation requirements.”

Motion passed unanimously, 9-0

Motion made by Mr. Wilson to approve this item; second by Mr. Arthur.

Motion passed unanimously, 9-0

2. A Legislative public hearing for a general use rezoning request by Michael and Amanda Gress to rezone Parcel No. 5537 being 30.41 acres, from R-1 Residential to IL Light Industrial, located off Old US 1 and US 1, Cape Fear Township.

Ms. Birchett gave an overview of the staff notes and she reported that a legislative public hearing was held on January 22, 2019. Planning staff presented the rezoning request and

the representative for the applicant, Attorney Patrick Bradshaw, also presented to the Board. No-one signed up to speak. This parcel is zoned R-1 Residential and has a mobile home space, as noted on the property tax card. The areas surrounding the parcel are zoned R-1 Residential and there is one occupied dwelling adjacent to the tract located on Parcel 80194.

Ms. Birchett stated that the property is located within the WSIV-PA Protected Area Watershed designation, but is not located within the Jordan Lake Buffer rule area. Built upon area within this watershed district is limited to 36% without curb and gutter.

Ms. Birchett continued stating that in considering a general use rezoning request, Section 19 of the Chatham County Zoning Ordinance states the four standards must be addressed and supported in order to be considered for the intended zoning designation change. The standards are:

Standard No 1 – The alleged error in this Ordinance, if any, which would be remedied by the proposed amendment is: The application notes that the Future Land Use and Conservation Plan Land Use Map identifies the area where this property is located as an Employment Center node. The node recommends allowing for a mix of uses including industrial, office, and supporting retail, restaurant, service, recreation, and other uses. It is planning staff opinion this standard is met.

Standard No 2 – The changed or changing conditions, if any, in the area or in the County generally, which make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare are: This area of the county has several industrial and business uses and this property is located adjacent to an interchange with US 1. Additionally, a large area on the opposite side of US 1 is zoned Heavy Industrial. The applicant's representative stated the property is not suited for residential use due to the proximity of US 1 and other industrial uses.

The comprehensive plan also identifies this area as an Employment Center. Although a prospective tenant or pre-designed site plan have not been determined, this area has been identified as an area for economic development within the county. It is planning staff opinion this standard is met.

Standard No 3 – The manner in which the proposed amendment will carry out the intent and purpose of the adopted land use plan, or part thereof is: The Future Land Use and Conservation Plan Map show this area an Employment Center. The Employment Center node encourages a mix of uses including industrial, office, and supporting retail, restaurant, service, service, recreation, and other uses. The current R-1 Residential zoning classification does not allow the mix of uses that would be encouraged for an Employment Center. It is planning staff opinion this standard is met.

Standard No. 4 – All other circumstances, factors, and reasons which the applicant offers in support of the proposed amendment are: The property has convenient access to Old US 1 and US 1 that are unique to this property. There are other heavy and light industrial

operations within close proximity which create an area that is unlikely to have substantial residential growth due to noise from traffic and industrial operations. Because the watershed district limits built upon area to 36% a large portion of the property will undeveloped. The access to the site is via a private road, Obler Rd., which has an access easement to Old US 1. A commercial driveway permit will be required to connect to Old US 1. It is planning staff opinion this standard is met.

It is planning staff opinion that the Zoning Ordinance standards for granting a rezoning request have been met for this property.

Ms. Birchett stated in closing that the planning staff recommends approval of the general use rezoning request. The Planning Board has up to three meetings in which to make a recommendation for approval or denial to the Board of Commissioners.

A proposed consistency statement has been provided below in support of the rezoning request:

It is the opinion of the Planning Board the rezoning request is consistent with the Chatham County Comprehensive Land Use Plan based on the property being located within a node designated as an Employment Center that recommends allowing a mix of uses to include industrial and therefore should be approved.

Ms. Birchett said that the applicant Mr. Gress and his representative Mr. Bradshaw is available to answer questions for the Planning Board.

Board Discussion followed and some items discussed were as follows:

- Vice-Chair Lucier stated that there is a creek that runs near the northern part of the parcel. He stated that he has no issue with the rezoning request, but he thought that the creek should not be broached with a storage area. Vice-Chair Lucier recommended dropping the northern tip of the property out of the rezoning. Ms. Birchett stated that this area it is too narrow and the applicant will not be able to do anything with it anyway. Vice-Chair Lucier stated that if he owned the other property he could have access to it.

Mr. Bradshaw stated that the point Ms. Birchett was making is that there are 50' setbacks on all boundaries, and it is so narrow that it is impractical to use. Vice-Chair Lucier stated then the applicant shouldn't object to dropping that area from the rezoning then. Mr. Bradshaw stated that this is a property that is in the employment center, so there is likely to be other rezoning in the future.

- There was Board discussion about the location of the northern tip of the parcel being just outside the employment area.

- Vice-Chair Lucier stated that the last item discussed was just a partial rezoning, and this property will have the vast majority of it rezoned. Mr. Bradshaw stated that it is not useful to his client and there is not an objection to Vice-Chair Lucier's request.
- Mr. Arthur asked what the plans are for the property. Mr. Bradshaw stated that there is not any specific use plans at this time.

Motion made by Vice-Chair Lucier to approve the consistency statement; second by Mr. Arthur.

It is the opinion of the Planning Board the rezoning request is consistent with the Chatham County Comprehensive Land Use Plan based on the property being located within a node designated as an Employment Center that recommends allowing a mix of uses to include industrial and therefore should be approved.

Motion passed unanimously, 9-0

Motion made by Vice-Chair Lucier to approve the rezoning to light industry, only the portion of the property south of the creek; second by Mr. Arthur.

Motion passed unanimously, 9-0

3. A Quasi-Judicial public hearing request for a conditional use permit revision to add additional storage units by Richard Veno on behalf of Robert Kapp and Brian Maginnis dba American Self Storage, located on Parcel No. 17454, 30 Mt. Gilead Church Rd., New Hope Township.

Ms. Birchett gave an overview of the staff notes and she reported that a conditional use district rezoning and conditional use permit (CUP) for a mini-storage warehouse and boat storage was approved on this parcel in August 1995. The CUP was amended in June 2016 to reconfigure the site and add additional storage units. A quasi-judicial hearing was held on this request on January 22, 2019 to consider amending the CUP to add additional self-storage units. Planning staff and the representative for the applicant, Richard Veno, presented the request and no-one else provided input.

Ms. Birchett continued stating that the site is currently under Notice of Violation (NOV) with the Planning Department for placing, locating, and/or erecting additional storage

units on the site prior to receiving required approvals. The property is also under NOV with the Watershed Protection Department (WPD) for disturbing the required 50 foot stream buffer located to the east of the cell tower where some units were been placed. Per Mr. Veno, the riparian buffer restoration plan is approximately 75% complete and they are continuing to work with WPD staff to gain compliance.

It was noted by staff that a revised site plan was provided at the hearing showing the relocation of two units that were originally proposed to be located between the two bi-level, enclosed storage buildings. Planning staff advised that during Technical Review Committee (TRC) meeting, the Fire Marshal's Office and Building Inspections staff expressed concern about fire separation between the structures. The applicant agreed to relocate those structures as shown on the revised site plan.

Ms. Birchett also stated that in reviewing and considering approval of a revision to a Conditional Use Permit, the Board must find that all of the findings of facts shall be supported. Per the Zoning Ordinance "In considering an application for a conditional use permit or revision to a CUP, 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 or revision thereof should not be granted, such proposed permit shall be denied."

Ms. Birchett stated that a community meeting was held on November 16, 2018 and notice was provided to the adjoining property owners as required by the Zoning ordinance. Concerns noted during the meeting were stormwater runoff and outdoor lighting. No new pole lighting is proposed, but wall packs with full cut-off fixtures will be added over the storage entrance doors, if needed. No additional built upon area or land disturbance is proposed.

Ms. Birchett continued saying that the site plan was presented to the Chatham County Appearance Commission (CCAC) on November 28, 2018. The CCAC recommended improvements to the current landscaping along the US 64 side of the property. Plant recommendations and sizes were noted for the landscape plan.

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. The property is currently zoned conditional use light industrial with a conditional use permit for mini-storage warehouse and boat storage. The adjoining parcels are zoned B-1, General Business, on the east, the west side of Mt. Gilead Church Road, and south side of US 64. The property to the north is zoned R1, Residential. The uses the in the area include single-family residential, service station, auto repair shop, boat storage, and motorsports sales. Mini warehouse storage is an allowable use in Industrial Light zoned properties and the additional structures are for expansion of mini warehouse storage. It is planning staff opinion this finding has been 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 they continue to have requests for enclosed storage. The additional storage structures will allow for enclosed space to be available to meet the demands of their clients and will be permanently fixed to the property. A question was asked about access to the telecommunication tower on the property in the event of an emergency and whether units would have to be moved. Mr. Veno stated they could access the tower by different methods depending on the issue. It is planning staff opinion this finding has been 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. The additional structures are to be placed in areas within the existing boundaries of the project site. There will likely be no noticeable change in on-site traffic generation from the additional storage units. No additional pole lighting will be added, but full cut off wall packs may be installed on the entrances to the storage units. There will be no change in noise, chemical storage, or biological agents stored or associated with the use.

Planning staff also noted that some of the new units would be placed within the fall zone of the existing cell tower. The Chatham County Wireless Telecommunications Ordinance does not address a separation distance for structures or buildings within the required fall zone area that are on the same site as a tower, but the owner of the cell tower has been contacted to determine if there are any issues. Mr. Veno stated they have requested a letter from American Tower allowing the new mini-storage unit placement in order to satisfy the county's concern about the cell tower fall zone. It is planning staff opinion this finding has been met.

Finding 4 – The requested permit will be or remain consistent with the objectives of the Plan Chatham comprehensive land use plan. The use that is currently occurring on the property will continue and is proposed to be expanded. The property is located in a Crossroads Community designation and the description includes a "Mix of uses [that] include single-family residential, some agriculture support services, limited supporting retail, and institutional use." Economic Development Policy 4 states "Support existing businesses, including small and medium-sized firms" and Strategy 4.4 states "Permit existing commercial and industrial uses that are appropriately zoned to continue to operate, contingent upon meeting the environmental and transportation requirements." It is planning staff opinion this finding has been 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. All utilities, road access, landscaping and other required site specific details will continue to be in compliance with county regulations.

The proposed structures are to be placed on existing built upon area and there will be no increase in impervious surface. Because the property was largely developed prior to watershed rules being implemented by the county in 1994, the property remains at approximately 70% built upon area which is allowed. Other than the new additional plantings and restoration of the stream buffer there will be no other land disturbing activity on the property.

There was concern about traffic circulation, specifically for emergency vehicles to be able to adequately access the rear of the site in case of emergency. Mr. Veno stated the required width and turning angles were reviewed and no issues were noted. It is planning staff opinion this finding has been met.

Ms. Birchett stated that it is the opinion of planning staff that the required findings can be met to approve the conditional use permit amendment with conditions that are provided in the recommendation.

Ms. Birchett stated in closing that 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. 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 (2) years of the date of this approval or the conditional use permit revision becomes null and void.
3. All existing conditions shall remain in effect, except as modified by this conditional use permit amendment.

Standard Site Conditions

4. 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.
5. 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:

6. 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.
7. Continued Validity – The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditional listed above.
8. Non-Severability – If any of the above conditions is held to be invalid, this approval in it's entirety shall be void.
9. 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 said that Mr. Richard Veno is available to answer questions for the Planning Board.

Board Discussion followed and some items discussed were as follows:

- Ms. Birchett stated that she received an e-mail today from the American Tower representatives saying that their legal department is putting a letter together about the storage buildings being allowed in the fall zone of the cell tower. As long as the tower company can get through the gate for maintenance, they're fine with the location of the pods. Ms. Birchett stated that this is not a zoning requirement, it is just something that the staff wanted in writing to have in the file to ensure there is no issue.
- Mr. Arthur, asked what is a fall zone? Mr. Veno stated that a fall zone is an engineered location around the tower that is based on where they create the bend points or break points in the tower. He stated that they can be designed for different fall zones. Mr. Veno stated that when the tower fails it will not tip like a tree and fall, but it will fall and collapse on itself. It is not meant to fall and hit the ground, it should fall and hang-up on itself. Mr. Veno stated that the only way to

make a tower fall is Mother Nature, such as storms or things like a rooftop flying through the air.

- Mr. Galin asked Ms. Birchett about the cell tower letter as to what to expect. If the tower were to fall and crash onto the storage pod, the cell tower is not liable? Ms. Birchett stated yes that is what they are expecting.
- Vice-Chair Lucier stated that this is a crossroads community, normally it wouldn't have a light industry business. Ms. Birchett stated that is why she noted the strategies for the existing business. Vice-Chair asked if what Mr. Veno is doing is consistent with a B1 zone. Mr. Veno stated that they are not trying to rezone, but make changes to an existing CUP. Vice-Chair Lucier stated that he understood, but would like to see it be consistent and zoned as a B1.

Ms. Birchett stated that the old designation business is B1, but we can't change the zoning and B1 can't be used anymore because it is a historical district.

Mr. Sullivan stated that if there was a request to rezone to one of the existing business districts that supports mini storage warehouses, this current request would have to be denied or withdrawn. The applicant would have to start from scratch and that would set them back for quite a while. Mr. Sullivan stated that this CUP is locked down to this specific use and site plan. That would require any amendments, such as this, to come before the Board. Ms. Birchett stated that there is no more room on this property for anything else.

- Mr. Spoon asked for clarification about the current violation with the storage facility. Ms. Birchett stated that they are currently in violation for putting storage units out on the property without going through this process. Mr. Sullivan stated that this request is to correct the violation.
- Ms. Birchett stated that this is a CUP and is quasi-judicial, which locks them in to whatever site plan is approved at that time. She stated that staff understands if something needs to be shifted around, but when you actually add more structures, that is what causes the revision to the CUP.
- Mr. Sullivan stated that the Watershed Protection issue is also involved with the Jordan Buffer Rules, so they have 5 years of monitoring and maintenance. Mr. Veno stated that the desired plant stem is 327 stems per acre, but planted requirement is 436 stems per acre, because some will die off.

Mr. Veno stated that the maintenance plan to remove all the violations is going to consist of removing the buildings and the gravel sub-base. Then when the sub-base is removed, the ground will be tilled to loosen. He stated that there are some earthen debris stock piles that need to be removed from behind the buildings. Mr. Veno stated that the area needs to be graded so that it is defused for proper flow into the buffer. He stated that the area will be flagged and the stems will be planted as 1" trees and seedlings.

- Chair Siverson asked if 75% of that work has already been done. Ms. Birchett stated that 75% of that process has been completed. Ms. Birchett stated that Watershed Protection will stay on top of this project and make sure they are no longer in violation. Ms. Moose asked if this is monitored by the County. Ms. Birchett stated yes.
- Chair Siverson stated that the landscaping along Hwy 64 is going to be thicker. Mr. Veno stated that the Chair was correct.
- A citizen from the audience asked if there are any fines associated with the violations. Ms. Birchett stated that she can't speak for Watershed Protection, but the Planning Department has not reached the point of issuing civil penalties. As soon as they went into notice of violation, they immediately filed for the CUP revision. She stated that it went into a state of stay and as long as this gets approved, it will not have to go to the next step of civil penalties.
- Mr. Galin asked, how does this happen, to end up in violation like this? Mr. Veno stated that he can't speak on that, but these units are looked at by the owner as portable skids and can be moved with a large forklift. Mr. Veno stated that whether it was inadvertent or he knew that he was putting them in the stream buffer, Mr. Veno said he can't speak to that. He stated that it was edge of pavement, so it looked like an optimal placement for storage. Mr. Veno stated as to why or how that came about, he can't answer that.
- Ms. Moose stated that at the community meeting there was some concern about the stormwater, and she asked if it was concerns about existing stormwater or potential problems. Mr. Veno stated that when he held the community meeting nobody showed up. Mr. Bathrick contacted Mr. Veno by phone and asked about new lighting. Mr. Bathrick was okay as long as they didn't add any pole lights, and he didn't want to see more stormwater on his property. Mr. Veno stated that he assured him that there will not be any increase of stormwater because there will not be any addition to impervious surface.

- Ms. Moose asked, who had the concern of the traffic circulation with emergency vehicles? Ms. Birchett stated that in the TRC meeting, the Fire Marshal wanted to make sure the distances between the units were wide enough for them to get in there if something were to happen. Ms. Birchett stated that they were satisfied with the distances. Mr. Veno stated that it is 20' wide which is the minimum allowed for emergency vehicles.
- Mr. Spoon asked, with the CUP, if the next property owner wanted to do something different in light industrial other than storage, would they have to go through the process again. Ms. Birchett stated yes.
- Mr. Arthur asked, if we approve this request is there still going to be monitoring of the violation? Ms. Birchett stated that there will be enforcement. Mr. Veno stated that there has been a weight on the owner all through this process and if he would have done this right the first time it would have been much cheaper.
- Chair Siverson stated that the stream buffer was a big topic when this was approved the first time. Vice-Chair Lucier stated that the buffer was a legitimate concern that the Planning Board had when this was extended with impervious surface near Jordan Lake.
- Ms. Moose asked about delaying the process until this violation has been fully solved. Chair Siverson stated that there is a good process in place and it will get resolved. Mr. Sullivan stated that if it isn't resolved, then there are penalties with daily fees that can reach up to \$5000 a day, and it will go to court.

Motion made by Mr. Spoon to approve the request; second by Mr. Galin.

Motion passed unanimously, 9-0

IX. NEW BUSINESS:

X. BOARD MEMBERS ITEMS:

1. Update from the Planning Board liaisons.

- Vice-Chair Lucier stated that the Pittsboro Planning Board meeting had one action about a propane tank filling station and then they

went into two hour training about ethics. Vice-Chair Lucier reminded the Board members that there is a new Eagles gas station coming and it has been approved.

- Chair Siverson stated that the Siler City Planning Board is busy making amendments to their UDO.
- Ms. Moose stated that Agriculture Advisory Board was on the same night as the Planning Board meeting. She stated that they are meeting next week and Ms. Moose stated that she was going to share with them the rationale behind the approval of the oil and gas exploration and fracking item.
- Chair Siverson stated that she and Mr. Sullivan will be attending the Environmental Review Advisory Committee meeting on February 13th to address some of their concerns about the Planning Board action on fracking. Additionally, speaking about the standards for the special study.

Mr. Sullivan stated that a booklet is being prepared for them and Mr. Dunn will be attending the March meeting.

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. Unified Development Ordinance Request for Proposals Update
Mr. Sullivan stated that staff hopes to have a contract or at least a Board approve staffing for a contract in mid-April. Hope to have a contract with a consultant by the beginning of May. Mr. Sullivan stated that this is a 4 to 5 year project.
3. Subdivision Regulations Conservation Design Guidelines Revisions.
Mr. Sullivan stated that there is a subdivision conservation option in the regulations. There are two data sets that are critical that Chatham County cannot host on the website, so they have to be obtained from the Department of the Environmental

