



**Chatham County Planning Board
Approved Minutes
March 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:

Caroline Siverson, Chair
George Lucier, Vice-Chair
Clyde Frazier
Jon Spoon
Cecil Wilson
Bill Arthur
Franklin Gomez Flores
Emily Moose
Gene Galin
Allison Weakley
Jamie Hager

Absent:

Planning Department:

Jason Sullivan, Planning Director
Angela Birchett, Planner II/Zoning Administrator
Kimberly Tyson, Planner II/Subdivision Administrator
Hunter Glenn, Planner I
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, Mr. Gomez Flores arrived at 6:33 and Mr. Wilson arrived at 6:42)
- 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 8-0 and the agenda was approved. (Mr. Gomez Flores and Mr. Wilson was absent)

V. APPROVAL OF THE MINUTES:

Chair Siverson asked for consideration of a request for approval of the February 5, 2019 minutes with a few minor proposed changes. There were no objections by Board members and the February 5, 2019 minutes were approved. Motion was made by Ms. Moose to approve; second by Mr. Arthur.

Motion passed 8-0, Ms. Weakley and Ms. Hager did not vote on the minutes because they were absent during the February 5, 2019 Planning Board meeting. (Mr. Wilson was absent)

VI. ELECTION OF OFFICERS:

1. Election of Planning Board Chair and Vice-Chair

- Chair Siverson made a motion for Vice-Chair Lucier to be appointed the new Chair. Motion second by Mr. Arthur.
- Mr. Galin made a motion for Mr. Wilson to be appointed Chair. There was not a second.

Motion for Vice-Chair Lucier to be appointed as Chair passed 9-1, opposed by Mr. Galin. (Mr. Wilson was absent)

- Chair Lucier made a motion for Ms. Siverson to be appointed Vice-Chair. Motion second by Mr. Arthur.
- Mr. Galin made a motion to appoint Mr. Wilson to Vice-Chair. There was not a second.

Motion for Ms. Siverson to be appointed as Vice-Chair passed 9-1, opposed by Mr. Galin. (Mr. Wilson was absent)

VII. PUBLIC INPUT SESSION:

- Chair Lucier asked if there were citizens signed up to speak. Clerk Garrett informed the Chair that there were five citizens that have signed up. Four wished to speak on the second zoning item and one wanted to speak about the item under New Business.
- Chair Lucier asked the citizens if they could wait and speak on the item when it is before the Planning Board.

VIII. SUBDIVISION:

1. Request by F-L Legacy Owner, LLC for subdivision Preliminary Plat approval of **The Legacy at Jordan Lake – Phases 4A3, 6A1, and 6A2** consisting of 88 lots (34 lots in 4A3, 27 lots in 6A1 and 27 lots in 6A2) on 30.90 acres, located off SR-1716, Big Woods Road, parcels #17378 and 92463.

Ms. Tyson gave an overview of the staff notes and she reported that the request before the Board is for subdivision preliminary plat review and approval of Phase 4A3, 6A1, and 6A2 consisting of 88 lots on 30.90 acres. The developer has provided an update to the Conditional Use Permit conditions of approval. See attachment # 2. Phase 4A3 is being developed out of Tract 2B and Phases 6A1 and 6A2 are being developed

out of Tract 2 and all phases are owned by F-L Legacy Owner, LLC. Phase 6A has steep slopes in the vicinity of the original layout and the layout that is currently shown decreases the length of the cul-de-sac. The lots in this portion of the phase were removed to limit construction in the area of the steep slopes. Roadways within Phases 4A3, 6A1 and 6A2 will be private, with a 50 foot wide right-of-way. The roadways will be paved to the NCDOT standards, but not reviewed and approved by NCDOT. Per Note 12 on the preliminary plat, the roads will be privately maintained by the Legacy at Jordan Lake, HOA.

Ms. Tyson continued stating that the Emergency Operations Office has approved the road names *Edgebrook Court*, *Waterfall Pointe*, *Willow Trace Court*, and *Stone Bridge Crossing* for submittal to the Board of Commissioners for approval. Phases 6A1 and 6A2 are adjacent to Parker's Creek. The area adjacent to Parker's Creek is owned by F-L Legacy and is in a conservation area (Buffer Area 4). Parker's Creek is not part of Phase 6A1 and 6A2. She stated that the Fire Marshal has reviewed the plans for Phase 4A3, 6A1 & 6A2 regarding access for emergency vehicles and found the plans acceptable based on road widths. The development is a gated community and the fire department has been provided access if the gate is locked.

Ms. Tyson also stated that the TRC met on February 13, 2019 to review the plans for Phases 4A3, 6A1 and 6A2. There were no concerns from staff. The property is located in an area designated as Compact Residential. The designation is based on the existing approved Planned Unit Development for a cluster development. In closing, Ms. Tyson stated that the Planning Department recommends granting approval of the road names, *Edgebrook Court*, *Waterfall Pointe*, *Willow Trace Court*, and *Stone Bridge Crossing* and granting approval of the subdivision Preliminary Plat of **The Legacy at Jordan Lake – Phase 4A3, 6A1 and 6A2** as submitted.

Ms. Tyson said that Mr. Craig, Mr. Ashness, and Mr. Smith were available to answer questions for the Planning Board.

Board Discussion followed and some items discussed were as follows:

- Ms. Weakley asked for the calculation of the amount of impervious surface proposed for the planned phases. Mr. Craig stated that those calculations are included in the information for the stormwater approval. Ms. Weakley stated that they are only treating half an inch of stormwater runoff. She stated that the lot sizes are pretty small and the homes will be big with a lot of impervious surface for the steep terrain and the location near Jordan Lake.

Mr. Craig stated that there was a packet provided that explained the background of the project and the requirements of the project. He stated that the half inch treatment of stormwater was not a requirement of this project and was offered by the owner during the CUP process. Ms. Weakley stated that with the CUP it is now a requirement to treat half an inch of stormwater. Mr. Craig stated that these plans are in compliance with what was submitted by the owner under the CUP.

Chair Lucier asked if we had the information to answer the question about the impervious surface. Mr. Sullivan is looking into the different documentations provided to find the calculations.

- Ms. Weakley stated that she is just curious of the calculations because of the location being on the shores of Jordan Lake. Mr. Craig stated there is area outside of the lots where stormwater drains through those areas, then drain through an additional buffer that was not required, then drain through the buffer that was required. Ms. Weakley stated that the buffer was required under the CUP. Chair Lucier stated that there was a required buffer, but they also provided a voluntary buffer as well.

Mr. Craig stated stormwater from the roads go through a pond, majority of the homes stormwater go through a pond, and the homes that don't go through the pond discharge through woods, a buffer, and an additional buffer required by the County.

- Mr. Ashness stated that the impervious surface varies from section to section. He said the larger lots near the entrance of the development have 9,000 to 10,000 sq. ft. of impervious surface per lot. He stated Phase 4 consists of smaller lots which is more internal to the project with about 5000 to 6000 sq. ft. of impervious surface. Phase 5 and 6 are closer to 7000 sq. ft. of impervious surface.

Mr. Ashness stated that the homes are built very close to the Right-of-Way with short driveways, most homes are two story, and all of that coverage is accommodated by the stormwater ponds. He stated that runoff that is not directed to the ponds sheet flows off the back of the property and they have accounted for that impervious surface as well.

Ms. Weakley stated it is not sheet flow, it is stormwater coming out of the roof drains. Mr. Ashness said Water Quality acknowledges that water coming out of roof drains and spreads onto a lawn area is considered sheet flow. It is called disconnected impervious and is a permitted aspect for stormwater. Ms. Weakley stated that if there is a splash pad or something that causes the water to spread out, otherwise it is a direct flow down the steep slopes. She said that 6000 to 7000 sq. ft. of impervious per 11,000 to 20,000 sq. ft. lots can be a lot of impervious surface causing draining down the steep slopes and eroding the soil. Ms. Weakley stated this is important for the long term and these lots are right on Jordan Lake.

Mr. Ashness stated that they do not have a single instance where a lot drains directly to a buffer area. There is open space from the back of the lots, then there is a 100' voluntary buffer provided rather than the required 50' buffer. He said that the State criteria data studied at that time, stormwater was deemed treatable in a 50' buffer. Ms. Weakley stated she has concern for erosion as well.

Mr. Ashness informed the Board that his client has done a great job stabilizing the areas when grading is done. You will notice that when grading is done areas are hydro-seeded and mulched with very nice vegetation. There is a lot of pride in this project with quality developers that are complying with the regulations.

- Ms. Weakley stated that this development is right on Jordan Lake and the people purchasing these homes will be drinking Jordan Lake water. She stated that a half inch of runoff is all that is required to treat per the CUP, but there were at least 14 events that exceeded a half inch in 24 hours in 2018. Anything that is more than a half inch of runoff is going where? Mr. Ashness stated that it is being released and a half inch of runoff is considered the initial flush, where petroleum and other pollutants build up on roads. There is a greater concern for the water quality for that initial flush and there is not treatment beyond a half inch of stormwater.

Ms. Weakley stated that today's standards require 1 inch of treatment for stormwater. She understands that they are not required to treat more than a half inch because of the CUP, but there is a good reason it is required to treat 1 inch today. There have been a lot of events lately that are more than a half inch

in 24 hours. She has concern for post construction erosion being so close to Jordan Lake and Parkers Creek recreation area. She stated that this area is popular for children to swim in because there is no boat traffic.

Ms. Weakley stated that she can't vote to approve this item because over the long term this is very problematic for Jordan Lake. Mr. Ashness stated that since inception to now, over time the project has been modified with a continuous retreat. Originally they were going to subdivide and have lots placed on the other side of Parkers Creek. Typically there have been a sequence of making lots smaller which makes all of the open space larger on the project. Mr. Ashness stated that if you look at the original plan that was approved back in 2005, they have substantially more open space now.

Mr. Ashness also stated that the area that is being discussed tonight is not in the critical area, but the lots that would have been built on the other side of Parkers Creek were in the critical area. He said they have taken steps in the direction Ms. Weakley is describing. Mr. Ashness acknowledges they are not addressing all of Ms. Weakley's concerns, but the reality is they are fully compliant with the regulations and are not seeking to shortcut, they are just seeking to finish the project.

- Mr. Smith stated that when they heard the concern for steep slopes, they went back and removed any lot that was in a continuous steep slope 25 degrees or greater. He stated that they are at a .3% impact on steep slopes and they have eliminated lots. Mr. Smith also stated that they have made lots smaller in order to stay out of those areas and pull them away from the buffers. They went from a 100' buffer to at least 40 feet away from that in every instance. He stated that they pulled all the lots away from Parkers Creek and moved them to the other side of the project. Mr. Smith said that they heard the concerns of the Planning Board last time and addressed them with this plan.
- Chair Lucier stated that they provided the Board with a lot of good information that they were seeking previously. He stated that he liked the indication of the disturbance in relation to the buffer and the identification of where steep slopes are located.
- Mr. Spoon asked if the HOA is established and active. He also asked how involved they were with the HOA about the care for private roads in the long term. Mr. Smith stated that the HOA is established and active. He also stated that four years ago when they came into the project they repaved every road in the community because they were in bad shape. He stated that they have redone every sidewalk and curb. They have also brought the gate house up to par and made the gates active again. Mr. Smith also said that they built the amenities center two years ago and dedicated that to the residents. He stated the HOA dues have not been raised in four years and they are paying a subsidy to keep the development up and open so when it is built out, the HOA will have enough money to move forward.

Mr. Spoon asked if the residents have an understanding how much money that is going to take? Mr. Smith stated that they present budgets to them multiple times a year to get an understanding.

- Mr. Spoon asked about the private wastewater plant and who is operating it. Mr. Ashness stated that it is Aqua System wastewater. It is a concrete plant and has a 120,000 gallon capacity per day. He stated that what they are seeing now is the actual usage from a home with energy efficient appliances is much

lower. The typical daily usage per home with kids is about 125 gallons per day for wastewater and the permitting is at twice that level.

Mr. Spoon asked if they have the capacity that they need for this development. Mr. Ashness stated yes. Chair Lucier asked if that was 200 gallons per day. Mr. Ashness stated it is based on 200 gallons per day, but they are only seeing about 125 gallons per day per house.

- Vice-Chair Siverson said she went to the site for a tour and was impressed and feels that they are doing their due diligence and doing a good job.
- Ms. Weakley stated that when this project was first starting to be developed there wasn't an erosion control program. One of the reasons we do now is because of this project. She stated that she was calling the State asking for help on a regular basis because she used to monitor Parkers Creek four times a year and they saw the sediment coming off of that site. It would take the State two months to come out on site because we did not have a program of our own. Vice-Chair Siverson asked if she knows what the condition of Parkers Creek is today. Ms. Weakley stated that she doesn't because she had moved away from the area.
- Chair Lucier stated that he was a County Commissioner when the erosion control ordinance was developed and there was a tremendous amount of different projects getting approved between 2005 and 2006. Ms. Weakley stated that they are not subject to the steep slope portion of the erosion control ordinance. She stated that it is not just the steep slopes of 25 degrees or more but also the 15 degree slopes.

Mr. Ashness stated that they are subject to the size requirement and that the sediment basins that are installed temporarily are meeting the County's current requirements during construction and those are a lot larger in volume than the State requires.

- Ms. Hager asked Ms. Weakley if she was advocating for one inch stormwater treatment over the half inch treatment. Ms. Weakley stated that the one inch is a State requirement now. She said that Chatham County has a good stormwater ordinance and the requirements today are much better. Any stormwater that is over a half inch is spilling over and going into Jordan Lake.
- Vice Chair Siverson asked about a swale to catch runoff on the site. Mr. Craig stated that those are only used during construction.
- Ms. Moose asked Ms. Weakley if she sees a pathway to address her concerns. Ms. Weakley said to address stormwater in a more holistic way and she would feel better about it. Meeting the State requirement and the County requirements would go a long way. She stated that there were not many 1 inch in 24 hour events and to treat 1 inch would be better.
- Mr. Wilson asked Ms. Weakley if the developer has met any of her requests from the last Phase to this Phase. Ms. Weakley stated no, she is concerned about stormwater and steep slopes. Mr. Craig stated that they did address steep slopes and they used Chatham GIS information and placed it into their CAD

system and he stated that they stayed away from the steep slopes and they are mostly located in the buffers. He added that the lots that do have steep slopes are .7% cleared and graded on 6A1, .3% cleared and graded on 6A2, and .0% on 4A3.

Chair Lucier stated that it is indicated on the maps how far away from the buffer the cleared areas on steep slopes were and they are a good 70 feet at least from the extended buffer.

- Mr. Ashness stated that they appreciate Mr. Weakley's concerns. He stated that his client has made decisions and has permits based on known guidelines that we have had to meet. He stated that the client is doing everything to stabilize the site and make this a quality neighborhood. He said they are looking to complete this project and the only phase beyond this is Phase 3.
- Ms. Weakley asked if there is mass grading on Phase 6A? Mr. Ashness stated that there is grading in the lots and in the road. Ms. Weakley asked about Phase 4A. Mr. Ashness stated that Phase 4A had mass grading with an approved permit 5 years ago. Ms. Weakley stated that if you start grading and moving dirt it will go into Parkers Creek.

Motion made by Mr. Wilson to approve this item; motion was second by Mr. Galin.

- Ms. Moose stated that she is going to vote for this, but will remember it when they are working on the UDO.

Motion passed 9-2, Ms. Weakley and Ms. Hager were opposed.

IX. ZONING:

1. A Legislative public hearing request for general use rezoning from CU-Ind Heavy to R-1 Residential by Jim Saputo on property located at 148 Rush Rd. New Hill, Parcel No. 5545, being approx. 51.6 acres.

Ms. Birchett gave an overview of the staff notes and she reported that a legislative public hearing was held on February 18, 2019. Planning staff presented the request and Mark Ashness, representative for the applicant, spoke. No one else spoke on the matter. This property currently has a zoning designation of Conditional Use Heavy Industrial (CU-IH) which was approved in 1994 for a rock crushing operation. The conditional use permit (CUP) associated with the rezoning approval would be voided should approval for this request be granted. The property was never developed for the heavy industrial use and has remained vacant. The property is located in an area surrounded on three sides by R-1 Residential zoning. The properties to the south are zoned Conditional Use Heavy Industrial (CU-IH), Conditional Use Business (CU-B1), and Residential. The conditional use permit for the property zoned CU-IH is part of the CUP for the property under consideration for rezoning and will be voided. The CUP for the CU-B1 property is for a landscaping and nursery business. The applicant also owns the adjacent property to the east, Parcel No. 66894, which provides direct access to Old US 1.

Ms. Birchett stated 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: The applicant is not claiming any errors in the ordinance. **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: Chatham County adopted a comprehensive plan and map that now identifies this area as suitable for agriculture and residential uses. Since the property was never utilized for industrial use since the conditional use heavy industrial zoning approval in 1994, reverting back to residential zoning complies with the newly adopted plan. The area immediately surrounding this property has not experienced significant growth, but the county has recently approved several rezoning requests on the south side of US 1 associated with the Moncure Megasite (<https://www.chathamcdc.org/real-estate/moncure-megasite/>). If a major industry opens in the megasite additional residential development will be needed in that area to provide housing for employees. Additionally, development pressure is increasing in Wake County with the construction of the Western Wake Wastewater Treatment Plant. **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 adopted comprehensive plan identifies this area as agricultural. Within this designation the recommended uses include large-scale agriculture, related processing facilities, single family homes, farms, and some supporting commercial and service uses. **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, due to the location to other residentially zoned properties and the fact the property never utilized the heavy industrial zoning obtained in 1994, supports rezoning to residential. **It is planning staff opinion this standard is met.**

The planning department recommends approval of the rezoning request based on all standards being met.

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 of parcel 5545 is consistent with Plan Chatham by being located within an agricultural designation which recommends allowing large-scale agriculture, related processing facilities, single family homes, farms, and some supporting commercial and service uses. The current conditional use heavy industrial zoning classification is inconsistent with the adopted plan.

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

Board Discussion followed and some items discussed were as follows:

- Chair Lucier said he assumed that they are acquiring multiple parcels and was wondering if they will be coming forward with a subdivision plan. Mr. Ashness stated that is likely. He also stated that he felt that Old US 1 corridor is a good dividing line between types of uses.
- Ms. Weakley asked for more information about the possibility of the new subdivision. Mr. Ashness stated that this is just a general rezoning and the other parcels are already zoned R1 and there is not any other plan at this time.

- Ms. Moose asked if the FMR Investments is the same as the FMR mining company. Mr. Ashness stated no relation.

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

It is the Planning Board recommendation that the rezoning of parcel 5545 is consistent with Plan Chatham by being located within an agricultural designation which recommends allowing large-scale agriculture, related processing facilities, single family homes, farms, and some supporting commercial and service uses. The current conditional use heavy industrial zoning classification is inconsistent with the adopted plan.

Motion passed unanimously, 11-0

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

Motion passed unanimously, 11-0

2. A Legislative public hearing request by Charles Walker for conditional district rezoning from R-1 Residential to CD-RB Conditional District Regional Business on property located off Hillside Dairy Rd., Parcel No. 12236, being approx. 29.594 acres, for grounds and facilities for open air games or sports specifically for regulation size cricket fields.

Ms. Birchett gave an overview of the staff notes and she reported that a legislative public hearing was held on February 18, 2019. Planning staff presented the request. Also speaking were adjacent/adjoining landowners Lynda Smith, Mark Weitzel, Mary Ellen Spivey, and Marty Raynor. Charles Walker presented for the applicant. Conditional Zoning districts are districts in which the development and use of the property is subject to predetermined ordinance standards and the rules, regulations, and conditions imposed as part of a legislative decision creating the district and applying it to the particular property.

Ms. Birchett stated that some land uses are of such a nature or scale that they have significant impacts on both the immediate surrounding area and on the entire community, which cannot be predetermined and controlled by general district standards. The review process established in this Ordinance provides for accommodation of such uses by a reclassification of property into a conditional zoning district, subject to specific conditions, which ensure compatibility of the use with neighboring properties. A conditional zoning district is not intended for securing early zoning for a proposal, except when that proposal is consistent with an approved land use plan or the proposal can demonstrate that public infrastructure needed to serve the development will be made available within a reasonable time period.

Ms. Birchett continued saying that a community meeting was held on January 2, 2019. One adjoining neighbor attended, Mary Spivey. Questions were about driveway improvements, drainage questions, and buffering. Mr. Walker also met with the owner of M and M Alpaca Farm on December 4, 2018 on site prior to this official community meeting.

A meeting with the Chatham County Appearance Commission (CCAC) was held November 28, 2018. There was a concern about the buffering along the western property boundary and the commission recommended a minimum 30 foot wide strip to be left unmowed and undisturbed to protect the adjacent property owner.

Ms. Birchett also stated that there are five standard items listed in the Zoning Ordinance that must be addressed by an applicant when submitting a rezoning application. The applicant has addressed those items in the application materials or in supplemental material and they are also discussed below.

Item #1: The alleged error in this Ordinance, if any, which would be remedied by the proposed amendment with a detailed description of such error in the Ordinance and detailed reasons how the proposed amendment will correct the same. The applicant is claiming no errors in the Ordinance. **It is planning staff opinion this standard is met.**

Item #2: The changed or changing conditions, if any, of 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. The applicant states based on an interest in creating an area that could offer recreation for outdoor sports, specifically international sports such as Cricket, that would be run by charitable organizations and volunteers makes this location suitable to promote public health, welfare and safety in privately-owned designated area.

It is planning staff opinion this standard has not been met. The majority of these parcels are residential or are currently being used for agricultural purposes. At the public hearing an adjoining property owner commented that the property is adjacent to an Alpaca farm. The increase in traffic on a private easement, if it were to be allowed, would disturb the animals and disrupt the residential nature of the immediate area.

Another adjacent landowner expressed concerns over the parking that would be adjacent to her residential home and the traffic that would be associated with the proposed entrance into the parcel. She also commented that there was no landscaping or screening proposed adjacent to her property, which is the location of the parking area. It is not clear if the private easement provided by Parcel No. 89717, belonging to M & M Developments LLC, permits the use for non-residential traffic or extends to the parcel under consideration for rezoning.

There was also concern noted about the location of port-a-potties that would be utilized for the property instead of permanent restrooms and how those would be maintained and buffered from view.

Item #3: The manner in which the proposed amendment will carry out the intent and purpose of any adopted plans or part thereof.

Ms. Birchett continued saying the applicant states the Comprehensive Land Use Plan shows the property within the Agricultural areas. Chapter 4, page 80 of the Plan encourages a diverse range of uses, amenities, services, and programs that can contribute to a healthier community. One main goal of the recreation area is to promote this concept. The applicant states the Plan also encourages the conservation of rural landscapes as noted in Chapter 3, page 41. They are proposing to preserve the old silo located at the corner of the property that would restore a cultural and historic resource of the area. It has not yet been determined what, if anything, will be done to the silo. The applicant also states by limiting the amount of ground disturbance, not adding any buildings or structures, and utilizing grass parking, will aide in the continued preservation of the rural landscape.

It is planning staff opinion this standard has been addressed but not supported. Chapter 3, page 41 of the Plan also states there should be preservation and protection of existing agricultural uses. The owner of the adjacent alpaca farm stated at the public hearing this activity, because of the increase in traffic, noise, etc., would potentially disrupt the animals and related activities associated with his agricultural business. The owner stated he is not opposed to the cricket fields, but is opposed to the proposed access via the private easement that would bring the traffic by his farm is the issue.

Item #4: The requested amendment is either essential or desirable for the public convenience or welfare. The applicant notes 3 goals of the comprehensive plan lend support to the request as noted on page 40. They area goal 1 to preserve the rural character and lifestyle of the county, goal 6 to provide recreational opportunities and access to open space, and goal 10 to foster a healthy community.

It is planning staff opinion this standard has not been met. Based on concerns raised by the adjacent and adjoining landowners, the use of the private easement for access, and the undetermined use or changes to be made to the existing silo do not support that the use is convenient or desirable for the public welfare in this particular location.

Item #5: All other circumstances, factors, and reasons which the applicant offers in support of the proposed amendment include:

Ms. Birchett stated that the property is located within the Local Watershed classification that allows up to 36% impervious surface. Other than installing a driveway onto the property, the site plan calls for grass parking and no proposal for buildings or structures so the ISA limit is not a concern. Currently the applicants are proposing no land disturbance within 100 feet of the existing creek that runs through the property as shown on the above soils map. **It is planning staff opinion this finding may be met.**

It is planning staff opinion this request be recommended for denial based on Standards 2, 3, and 4 not being met. Also, it is not clear if the private easement can be utilized for the parcel for non-residential traffic. Planning staff has asked for the applicant's attorney to provide an opinion regarding the legality of the easement and access to the parcel.

Based on the concerns from the adjacent landowners as noted above, it is planning staff opinion the public convenience and welfare has not been protected.

Ms. Birchett informed the Planning Board that they have a handout that Mr. Walker prepared addressing some of the concerns that were brought up at the public hearing.

Ms. Birchett said that the applicant Mr. Kris Vishwanathan and his representative Mr. Charles Walker are available to answer questions for the Planning Board.

- Chair Lucier asked for the public input at this time.
- Mr. Galin asked if the information provided by Mr. Walker were incorporated into the staff notes. Ms. Birchett stated no, the handout was provided after the staff notes were written.

PUBLIC INPUT:

- Mr. Ben Atwater, attorney for Mr. Raynor, of 183 White Tail Loop, Siler City, spoke and had some comments. Most easements when they are created state a purpose for what they are intended, such as ingress and egress to the property. He stated that this easement was created back in 1981 and it said, this includes a Right-of Way from the southwest corner of the above track to US Hwy 64 as indicated on the above plat and survey. Mr. Atwater stated trying to interpret matters of easements, the Courts look at the intent of the parties. He said he believes this easement was created between family members when part of the property was sold to other family members. Mr. Atwater stated that in 1981 all the property was farm land and single family residents much like it is today. He stated that if easements are expanded or increase in use, whether by different use or increase of volume, the

Courts could call it over burdening of an easement. He stated that you cannot over burden an easement and the Courts look at this on a case by case basis.

Mr. Atwater stated that this easement was created for ingress and egress for farming and residences. He continued saying that the easement was certainly not contemplated, at that time in 1981, that there would be an athletic contest with many vehicles using this private lane right across Mr. Raynor's property. Mr. Atwater stated that Mr. Raynor has put a lot of blood, sweat, tears, and a lot of money into his facilities. He stated that this easement runs right by his pastures, paddocks, and areas where the Alpacas are kept. He stated that they believe the Courts would construe this to be an over burdening use of the easement and therefor disallow it. Mr. Atwater asked, if the Board were to pass this rezoning item, who would control what happens out there? He stated "what if this catches on and there are people coming from everywhere going to these athletic events?" There will be a multitude of people driving down this little gravel private lane scaring these Alpacas. Mr. Atwater said that athletic facilities should be placed where there is more infrastructure and access to them so it is not to disturb the surrounding area. In closing Mr. Atwater stated that this easement is not suitable for what they are asking for and would be over burdening the easement. He thanked the Board for their time.

- Mr. Marty Raynor of 7084 US 64W spoke and had some comments. Mr. Raynor stated that he and his wife own M&M Alpaca Farm. The easement is a major concern with people going up and down the road. He stated that their farm is by appointment only and you can't just stop by and look at the animals. He said Alpacas are startled easily and are very expensive show animals on this farm. If there are people going up and down the road it will be disturbing their quality of life in the fields. He stated that there will also be people stopping to look at the animals, lining up along the fence which will just bring more disruption. He stated they do not allow people to go near that fence, they can come in from the front, but not along the sides. Mr. Raynor stated that this is only a 30' easement with a huge drop off where the properties meet because of the slope of the property. He stated that there is enough room for one car, not for cars to go back and forth. He also stated that the entrance doesn't meet DOT specifications and would have to be redone to meet them. Mr. Raynor stated he had to build a new 80' entrance for his property. He also said that in his opinion this will over burden the easement and not what the intentions were for.
- Chair Lucier stated that when he went out to the property he saw three driveways. One went to the Spivey property, then there is one in the middle, and then one that goes to Ms. Smith's property. Mr. Raynor stated that back in 2012 this was just a very small road with single access. He stated that when he purchased his property, he had to get access to the property. He stated that the center lane is a combination of the Spivey property with her 10' easement and the ditch that runs along the property.

Chair Lucier asked if the easement was 30' wide without the Spivey easement. Mr. Raynor said he was correct.

- Ms. Lynda Smith of 7134 US 64W spoke and had some comments. She brought some pictures and some information about the game of Cricket for the Board members. Ms. Smith stated that she moved out to that area not to be surrounded by commercial development or sporting events in her back yard. She stated that she lives in this county and the applicant Mr. Kris Vishwanathan does not live in this

county and doesn't have vested interest in this property other than developing it. She stated that he is purposing two cricket fields with 11 active players per team with umpires, score keepers, and spectators attending. She stated that is about 25 to 30 people per game with two fields so that is 50 to 60 people. She also stated that if they have multiple games per day for three or four days, you are looking at 200 to 300 people up and down the easement disturbing the animals and her. She pointed out how close her home is to the property to the Planning Board. She stated that she bought the house after the community meetings were held, so she did not get a chance to attend them to voice her concern.

Ms. Smith talked about the noise that is associated with a sporting event all day and for several days. She asked, when does she get her peace and quiet and it is not fair to her, the neighbors, or the animals. She stated that the parking lot is going to be right next to her front yard. She also asked about the trash that could be left behind such as protein bars and Gatorade and how that would be managed. "Who is going to pick it up and will it be blowing into my yard?" She also voiced concern about the port-o-potties and their location and if they are going to be services to keep them up. Ms. Smith stated that with 200 to 300 people a day, how is she to feel safe in her home? She wants to feel safe in her home, she just bought it on December 17, 2018. Ms. Smith wanted to know why they want to do something with the silo and make it a landmark. She said you can't see the silo from US 64, it is not a landmark. She also mentioned electrical lines that go across the field and asked if a ball were to hit the lines, what happens with that? She also spoke of the grading of the property saying the cricket fields need to be graded and that will create more runoff of stormwater onto her property. Ms. Smith stated that she has no problem if someone builds a home back there or even subdivides the land for four homes, but a sporting event with 200-300 people, noise, trash, and safety, it is not fair. She asked the Planning Board members how would they feel if this was happening to them and how would Mr. Vishwanathan feel if someone did that next his property. She thanked the Planning Board.

- Mr. Mark Weitzel, of 7134 US 64W spoke and had some comments. Mr. Weitzel stated that Ms. Smith is his wife. He said there is absolutely no positive economic impact for Chatham County with this rezoning. He stated that the applicant doesn't even live in Chatham County and probably 90% of the people playing this sport do not live in Chatham County. Mr. Weitzel stated that they are going to come to the cricket field, disrupt the local environment, cause traffic jams on US 64, and then they are going to go back to where they live, which is outside of this immediate area. He said there is no benefit to the proud Chatham County residents to have this in place. He stated that any grading to that area will cause a lot of runoff, not only our property, but the watershed that is on their property. He stated that the parking lot will be in his front yard and the runoff of cars parking there and oil dripping from motors will not only be in his yard, but also go down to the Alpaca farm.

Mr. Weitzel stated that there will be environmental hazards that were not even discussed. There is a gas container under the ground near the silo. If they do any disturbing of that area, then there will be EPA issues. He stated that he is a department supervisor at Lowes and basically works every day of the week. He stated that he would guess that the games are being played on the weekends when he is at work. With a possible 300, 400 or 500 people there, he had concerns about his wife's safety as she would be home alone. He stated that he will not be able to do his job very well when he is concerned for his wife's safety. Mr. Weitzel stated that the traffic coming off of US 64 and the over burdening of

the easement will be a hazard. There has already been an accident involving a FedEx truck because people do not slow down on US 64. He stated that he is worried with all the added traffic about when his wife, he, and neighbors are trying to leave the property and their safety. Mr. Weitzel stated in closing to please deny this request because of no economic impact, all the safety hazards, over burdening of the easement, and the health and welfare of the Alpacas. He thanked the Board members.

- Mr. Charles Walker the representative of the applicant spoke and had some comments. He stated that this is not an easy case for several reasons. Mr. Walker stated that he understands the neighbors' concerns and invited them to two meetings but they decided not to speak to us. The other issues we are dealing with are the emotional reaction to change. He said that the number of participants at the cricket fields has grown from 50 to 500 within the distance of this discussion and that is just not the case. Mr. Walker stated that he has had a traffic engineer take a look at this area. Mr. Walker handed the Board members the engineer report. He stated that if the property were to stay R1 it is allowed to have one house per acre and the use by right at R1 would put two and a half times more traffic than what this cricket field would be at any point. He stated that the traffic report was provided by Ramey Kemp and Associates. Mr. Walker stated that the daily traffic counts for 29 homes is 340. There are no cricket field matrix for traffic so they used soccer fields. He stated that soccer fields have more people than cricket fields and even they are no more than 140 trips at most. He said that number is only if both cricket fields were working all day, all weekend.

Mr. Walker stated items they are willing to add to the case are the hours of operation if that is something the Board would be willing to consider. Right now they are offering match play between the hours of 8am-6pm on the weekends and the seasonal activity runs between March and October. He stated that is eight days a month for eight months of the year, which is the only time this will be used. He asked the Board members to not lose site that the owner of this property is a non-profit operation. They have to have their own insurance and maintain the property. Mr. Walker stated that the members of the organization are also the people that will play there, so they do have a vested interest. Mr. Walker stated that it was mentioned that there was no economic impact, but if in fact this property were to go from R1 to Regional Business, the tax bill is going to change with that zoning change and the value would go up. So there is going to be a positive economic impact. Mr. Walker spoke about the latrines being over 400 feet away from Ms. Smith's property and 300 feet away from Ms. Spivey's house. He stated that they will be screened by existing trees and serviced at least every two weeks and will increase that schedule if needed.

Mr. Walker stated that there will be no impervious surface brought onto this property as part of this plan. He stated that the fields are grass and the location of the two fields are already grass for the most part. He stated that there is about 5 or 6 acres of the 29 to finish out the fields. Mr. Walker spoke of the survey he provided the Board and said it clearly shows the easement going from US 64 all the way to the applicants' property. He stated that there is no limitation on the use of the easement. Mr. Walker stated that they have had their attorney look at the deed and she concurs that there is no limitation on the easement. Mr. Walker stated that the attorney's letter of opinion is provided. He stated that the applicant would be willing to participate in a maintenance program for the easement. Mr. Walker stated that Ms. Spivey has animals in her yard as well and she is in complete support of this rezoning.

Mr. Walker said that at the public hearing he stated they are going to hire an engineer and see if there is an effective reuse for the silo, if there is not, they will clear around it and clean it up and leave it the way it is. He stated they feel it is an iconic feature to identify the facility. Mr. Walker stated that today the property is woods, grass, silo, and a gravel driveway. If this plan is approved it will still be woods, grass, silo, and a gravel driveway. He stated that they believe this is an important opportunity for the County to take for a private non-profit group bringing a new sport into the area. Mr. Walker stated that the idea of cricket is growing slowly much like soccer did and he feels it is a good recreational area. He stated that it is low impact, not a lot of players, no stadium, no bleachers, and the members of the 501C3 will use this facility.

Mr. Walker stated that this is a recreational play, not a business. The only reason they are filing for regional business rezoning is because in the County ordinance it says any recreational open play that is not run by the County, can't be in a R1 zoning. He stated that is the only reason they are at this meeting to rezone. Mr. Walker provided pictures to the Planning Board and informed them that they are photos of construction that Mr. Raynor did on Mr. Vishwanathan property without his permission. Mr. Walker spoke of a drain pipe that was installed on January 9th so Mr. Raynor could run concrete trucks to the back of his house to deliver concrete. Mr. Walker stated that the drainage problems on Ms. Smith's house are self-inflicted and that when they built the garage they did not provide positive drainage around the building. Mr. Walker stated that after the garage was built and they started to have drainage issues, Mr. Raynor tried to solve the problem by cutting a drainage ditch on the applicant's property again without permission.

Mr. Walker stated that the idea that the stormwater will sheet into their property is impossible because they dug a ditch. He stated that the ditch itself doesn't drain and he told Mr. Raynor that he will fix that and have it drain away from the garage and house. Mr. Walker mentioned that the garage has a setback issue by about 5 feet and they asked if the applicant would sell them about 5 feet of land to solve that issue. Mr. Walker stated with what is happening now, it is unlikely, but we can still try. Mr. Walker stated that the parking area that was referred to as the muddy area, became mud because of Mr. Raynor's equipment. He said that they are dealing with all kinds of issues that have nothing to do with the appropriate use of this land. He stated that he felt it was important to share the background and history so the Board was informed of these issues.

- Mr. Vishwanathan the applicant spoke and had some comments. He stated that he bought this property with a dream to play Cricket. He stated that he came to the Planning department for input and to all of the neighbors asking if it was okay to play there, which would be a private game played only on Saturday and Sunday. He stated that the intention is a small group of people to play on the weekends. Before they made the decision, he spoke to all the neighbors and even Mr. Raynor was supportive, but he doesn't know what happened because he has changed his view now. Mr. Vishwanathan stated they went to the Planning department and was told that the easement is 40' easement and can be used. He stated that they received all the green signals to move forward. He stated that their goal is to not disturb the neighbors and they are willing to work with them to make them feel comfortable. He stated that the people that will be playing are all professional people and they will be carpooling with 10 to 15 cars maximum. Mr. Vishwanathan stated that they have put a lot of money into this and a lot of

promises and now they are receiving all these issues. He hopes the County understands that they received the green signal from everybody and they are not going to change anything out there. He stated that they can keep the silo area intact and they are willing to look for other alternatives to come to a compromise. He stated that they are willing to look for a different easement into the property and a different location for the parking as well. In closing Mr. Vishwanathan stated that they are open to any suggestions to work this out.

- Mr. Raynor asked the Chair if he could speak again to defend himself about what was said. Chair Lucier said he could speak for a couple minutes.
- Mr. Raynor stated that the setback issue Mr. Walker is referring is entirely different and has nothing to do with their property. He stated that the ditch he created has been an ongoing issue with the previous owner and when the house started flooding he had to protect his property and he dug the ditch. He did that because the previous owner wouldn't do anything about the runoff. Mr. Raynor stated that the ditch he created drains into the original ditch. The pipe was approved by Mr. Vishwanathan so he could get across the ditch and onto his property. He also stated that not one concrete truck ever crossed his property.

Board Discussion followed and some items discussed were as follows:

- Mr. Wilson asked why they are not proposing to use access off of Hillside Dairy Rd instead of US 64. Ms. Weakley stated that they have to cross a stream if they went in that way. Chair Lucier stated it would be a longer driveway as well.
- There was some Board discussion about having access from Hillside Dairy and also parking in the clearing near the top of the property.
- Mr. Walker stated that their observations were correct, but their goal was to not disturb the property as much as possible and not cross the creek either with a foot path or drive. They wanted this as environmentally efficient as possible. Mr. Vishwanathan stated they are open for different options.
- Chair Lucier stated that they have two different legal opinions regarding the easement. Because the easement doesn't specify use beyond any residential use or agricultural use it shouldn't be used for anything but that use. He stated that we have also heard that since it didn't specify, it could be used for anything.

Chair Lucier asked Mr. Sullivan if we have received a legal opinion from the County Attorney about this issue. Sullivan stated that the staff has discussed this with the County Attorney and he said somebody needs to provide a legal opinion other than him. Mr. Sullivan stated that the final decision would be litigated by a judge. It would not be a legal, binding decision if the County Attorney were to make the decision about the easement especially if there is a dispute about it. This would be a civil matter and will need to be litigated.

- Mr. Spoon stated that the use of this easement is untenable for multiple reasons. The neighbors aren't happy with it and he doesn't think DOT will be happy with it either, turning directly onto US 64. Mr.

Spoon stated he would like to see a more specific site plan before even considering this item and maybe a plan coming off of Hillside Dairy Rd.

- Mr. Arthur stated that he thought it would be nice for the County to have some cricket fields, but he really doubts this is the right place. He feels this is like the church and place of assembly issue they are dealing with right now. He stated that this cricket field will be a place of assembly and the Board has some power because the rezoning is required. Mr. Arthur stated he doesn't think it will be 500 people, but whether that easement can legally be used for this purpose or not, it is a practical matter. This may cause a horrible traffic problem, the easement is very narrow and it is hard to see when driving west on US 64. Mr. Arthur just can't see how it can handle traffic going in and out. He also mentioned the problem with parking in front of Ms. Smith's home and there would have to be some kind of barrier in place. He stated that if there was a way to build access off of Hillside Dairy Rd. that would change things in his mind.
- Chair Lucier stated that he, Vice-Chair Siverson, and Mr. Arthur visited the site and the proposed parking lot is right in Ms. Smith's front yard and very close to her house.
- Ms. Moose stated that she thought it would be great to have cricket somewhere in the County, but even if the access challenges were fixed, the fact that it is in an agricultural area would be tough to approve. She stated if you look at the designation for agriculture, it is supposed to have large scale agriculture related processing facilities, supporting commercial and service uses, and single family homes. She doesn't see how this is a supporting business for farming. Mr. Walker stated that it isn't for farming, but it is a recreational use support. Ms. Moose stated that there are plenty of places in the County that would be appropriate for recreational use.

Mr. Galin stated he would not be surprised if we see more cricket fields in the County in the near future. The Morrisville mayor is a big cricket fan and they have a facility there in town called Church Street Park. He asked if that was a city or County facility. Mr. Vishwanathan stated that it is a city facility. Mr. Galin stated that on page 6 of the application there is be grass growing and no proposal for construction. He stated that the cricket fields in Morrisville imported 2400 fifty pound bags of clay from Indiana to construct the bowling surface. He asked why they are importing clay and you not importing clay. Mr. Walker stated that is the difference between professional grade for tournaments and recreational grade. Mr. Galin stated that Ms. Smith gave a hand out that said a cricket match can last several days. He asked how they limit their cricket matches. Mr. Vishwanathan stated that their match is about 4 to 6 hours per match because of the way they play it. Mr. Galin also stated that at the Morrisville facility there were spectators banging on drums and there was music. Is that something you are planning on doing on your field as well? Mr. Vishwanathan stated that was during a championship tournament and they do not plan on having spectators at all. Mr. Galin asked if the cricket players were professional and non-professional players. Mr. Vishwanathan stated that there are no professional's just players that want to go out and play.

- Ms. Birchett asked for clarification of Mr. Vishwanathan comment. She asked if this was just for players to come out and practice to get better to play with no spectators. Mr. Vishwanathan stated she was correct, no spectators.

- There was some discussion about the cricket matches being just for practice or games and if it is pick-up games or organized. Mr. Vishwanathan stated that there will be organized games.
- Vice-Chair Siverson asked Ms. Birchett about the Appearance Commission not recommending any buffering along the southern border. Ms. Birchett stated that she thinks they just missed it because that area was already cleared out and that they certainly would have suggested a buffer. Mr. Walker stated that they are willing to do what the Board would like for buffering.
- Vice-Chair Siverson asked, how many acres will be disturbed to finish the cricket fields? She stated that there seems to be a large slope. Mr. Walker stated that there is a large slope and they plan to have the fields offset. They do not need to be on the same plain, one field can be lower or higher than the other. He stated that about 5 to 6 acres will be cleared from trees to lawn. He also stated that about 10 of the 29 acres will be graded. Vice-Chair Siverson stated that if they reach 10 acres or more, they are required to get an Environmental Impact Assessment. Mr. Walker said he understands.
- Chair Lucier stated that the western part of the fields are flat, but as you go east they drop off a lot and there will need to be a lot of excavation. Mr. Walker stated that they plan to take the dirt from the higher field to be used to build the lower field and they will respect the topography.
- Mr. Arthur asked, if the power lines were going to be a problem? Mr. Walker stated that the power lines will not be a problem and have no intention to move the power lines.
- Mr. Vishwanathan stated that they would be willing to just build one cricket field if it is unfeasible to build the second field. There was Board discussion about having just one field opposed to two fields. Mr. Walker stated that they are open to discuss all options.
- Ms. Hager asked once this property is rezoned, can the property owner add lights and change the operating hours or are they locked into what has been agreed on. Ms. Birchett stated that we can condition those types of things. The item can be approved with conditions.
- Mr. Galin stated that if he were to vote right now he would be voting against this rezoning. However, it was mentioned that this could be worked on a little bit more and change some things. He asked if he could make a motion to table this item for next Planning Board meeting. Chair Lucier stated that it is in the Boards entirety to make that decision, but yes we have three meetings to make a decision. Chair Lucier stated that Mr. Galin could make a motion to table this item until next meeting.
- Mr. Wilson asked if the applicant owned the property before the easement was granted. Mr. Walker stated no. Mr. Wilson asked that when he purchased the property, would he be able to use that easement for residential use. Mr. Walker stated yes for use, there is no residential use. Chair Lucier stated that the easement was granted in 1981.
- Chair Lucier stated that he suggests a few more minutes for discussion and Mr. Galin can make his motion to table this item.

- Mr. Atwater stated that Mr. Walker is correct in that the easement doesn't say what it is used for. He said that is what the Court will look at as far as the intent and what it is used for at that time. From 1981 that easement has been used for ingress and egress by the property owners and residential farmers. Mr. Atwater also stated that they don't expect spectators, but it is easy to say that, but I don't think they would turn away spectators. Nobody can control the amount of spectators.

Chair Lucier stated that he understands that and they can put some conditions on it like to control the light situation, but can't control if there is more people than stated.

- Ms. Moose asked, if the Board were to table this item, what would we ask of them?
- Mr. Walker stated that if they received a list from the Board, they would work off the list. There was Board discussion about what they would like to see. They spoke about a plan that would not use the existing easement and maybe have a drive coming from Hillside Dairy Rd. The Board also discussed the option of having the parking lot in the clearing on the north end of the lot near Hillside Dairy. There was also discussion of having one cricket field rather than two fields.
- Chair Lucier stated that this is why they have the zoning process so neighbors can give their input and we have heard their input. They don't want this and they have some legitimate concerns, they are not just being emotional and that holds a lot of weight for him in this decision.
- Mr. Galin stated that he would like to see the staff work with some of the ideas that came up and if they would impact any of the findings. He relies on the staffs opinion and advice, plus maybe the neighbors can work something out as well.
- Chair Lucier stated that there is a buffering issue on the southern end of the property and an easement issue. He stated that it will be a litigation issue and for a judge to make the decision for the use of the easement. Mr. Spoon asked, is that really a process anyone wants to go through? He suggests the item is tabled until next meeting.
- Vice-Chair Siverson asked for the classification of the creek on the property. Ms. Birchett stated that it will need a determination. There was Board discussion as to what type of stream it might be classified as. Mr. Galin asked if they were to put a foot bridge over the stream, would that be a consideration. Ms. Weakley stated she would be okay with that.

Motion made by Mr. Galin to table this discussion until the next Planning Board meeting; second by Mr. Frazier.

- Mr. Sullivan stated that he has a list of items the Board would like to see such as; whether or not to use the easement, alternate access, privacy buffer, change parking location, and provide staff time to evaluate ideas against the findings.
- Mr. Arthur stated that he will not vote to approve anything that will use the existing easement.

- Vice-Chair Siverson suggested for them not to use that easement and move everything away from the southern boundary with buffering and to consider only one cricket field.
- Mr. Wilson stated this may not change the way anyone votes for this item. Some applicants will think if there are negotiations, that it will be approved and that is not always the case. Chair Lucier stated that this is a good point brought up by Mr. Wilson.

Motion to table this item passed 10-1, Ms. Moose opposed.

3. A legislative public hearing request by the Chatham County Board of Commissioners to consider amendments to Sections 1-4, Definitions and Terms; 2-4 (4), Setbacks; and 2-4 (6), Height, of the Wireless Telecommunication Facilities Ordinance to provide a telecommunication tower height waiver for public safety service providers.

Mr. Glenn gave an overview of the staff notes and he stated that a legislative public hearing was held on February 18th 2019. The proposed amendment is to Sections 1-4, Definitions and Terms; 2-4 (4), Setbacks; and 2-4 (6), Height. Jason Sullivan spoke on behalf of staff in support of the matter. Mike Reitz, 911 Communications Center Director, was available to answer technical questions regarding the towers. No one spoke in opposition and planning staff has not received any further calls or comments.

Mr. Glenn said that the Chatham County 911 Communications Center has an approved Capital Improvements Program (CIP) project to replace the current emergency radio system infrastructure with a reliable and industry standard P25 radio system. To accomplish this replacement requires the installation of new telecommunications towers in the county in areas that currently have limited or no coverage. To reduce the cost of this upgrade, the telecommunication's tower ordinance needs to be amended to provide tower height exceptions for public safety service providers. The 2020-2026 CIP includes the following description of the proposed replacement of the current emergency radio system:

"The existing VHF/UHF radio system used by county public safety agencies is approximately 30 years old. The system has been maintained by replacing and upgrading equipment as needed, but rapidly increasing communication demands and technology advancements have rendered the system obsolete. The county currently has seven different tower sites which transmit and/or receive communications to fire, emergency medical services, and law enforcement. The current radio system does not cover the entire county. Interoperability with surrounding counties and/or agencies is limited or non-existent due to disparate radio systems. The current radio system poses a serious safety risk for responders and citizens.

Upgrade the current system to a P25 700/800 MHz radio system and connect to the NC VIPER radio system. Eliminate four of the current tower sites that are outdated and not at a location that will permit the countywide coverage that is needed. Build three new tower sites and share the new VIPER tower that the state is constructing in Pittsboro."

Mr. Glenn continued saying the Chatham County Wireless Telecommunication Facilities Ordinance restricts telecommunication tower heights at 300 feet with the approval of waiver. The 911 Communications Center has identified two sites in the county's jurisdiction for new towers that would exceed the 300 foot height limit. The request is to amend the ordinance to provide an additional height exemption above 300 feet for public safety service providers. The County Attorney reviewed the proposed amendments to the Communication Tower Ordinance and made several minor changes. The proposed Ordinance Revision with the County Attorney notes is attached. Planning staff recommends approval of the proposed amendments.

Mr. Glenn stated that the Planning Board has up to three meetings in which to make a recommendation of approval or denial of amendments to Sections 1-4, Definitions and Terms; 2-4 (4), Setbacks; and 2-4 (6), Height, of the Wireless Telecommunication Facilities Ordinance.

In closing Mr. Glenn stated that the ordinance will say no towers may exceed a height greater than three hundred (300) feet. However, Public Safety service providers may request an exemption to allow a tower in excess of 300 feet where no other tower for co-location of emergency communication equipment is available. For example, with an exemption, public safety service providers, such as Chatham County Emergency Management, or NC Highway Patrol have the authority to request an exemption to construct or access towers in excess of 300 feet; for the purpose of expanding and improving wireless emergency communications.

Towers in excess of 300 ft. provide for the public health, safety, and welfare by ensuring that residents, businesses, and public safety operations in Chatham County have reliable access to state of the art telecommunication services. Allowing towers over 300 ft. will reduce adverse impacts communication towers have on neighbors by limiting the amount of towers required throughout the county. Towers over 300ft will significantly enhance communication services in the county and reduce the proliferation of smaller towers throughout the county.

Board Discussion followed and some items discussed were as follows:

- Chair Lucier stated that at the agenda review they discussed what would be the upper limit, knowing that 300' is not adequate. From his understanding there is not a need to go above 400'. Mr. Glenn stated that they had talked to Mike Reitz, the Chatham County 911 Communication Director, and he agreed that 400' is a sufficient height cap. Chair Lucier stated that the 400' cap should be part of the ordinance. Mr. Sullivan stated that it is not in the text, but it can be added.
- Mr. Frazier asked, what is the rationale for limiting the towers to 300'? Mr. Sullivan stated that the ordinance originally stated towers were limited to 199' because after that they require the red light on top. He stated that the 300' waiver was added to allow cell tower companies to serve citizens in the western part of the County. At the height of 199' it was not economically feasible for the company to provide service.

Mr. Frazier asked, why are we limiting towers? Mr. Wilson stated that the citizens don't want towers or tall unsightly towers in their area. There was some Board discussion about the height of towers and how Chatham County citizens feel about them.

- Mr. Spoon asked about being in compliance with the FAA and informing the Siler City airport of the towers. Mr. Sullivan stated that they have not because they will not impact the municipalities or the ETJ, plus it is several miles away from the airport. Mr. Spoon stated that maybe we should let them know about the towers. There was some Board discussion about the FAA requirements and the height of towers at 400'. Mr. Sullivan also stated that the County is more restrictive on height of the towers than the municipalities.
- Mr. Arthur asked why we are only allowing this for emergency services and not allowing for commercial purposes as well. There are people in this County that are begging for connectivity. Mr. Sullivan stated that the ordinance is written to allow only public safety providers, but the tower will be able to

accommodate four other providers. He stated that they can use the tower at 400' once it is built, but they can't build their own tower requesting it to be at a height of 400'.

- There was some Board discussion about who is the owner of the towers, other providers using the towers, and the ability to charge a fee to help pay for the towers. It was said that the County would be the owner of the towers and there are standard lease rates that are comparable to private companies.
- Mr. Frazier asked, if the height of the towers is a concern for neighbors, shouldn't there be provisions for their input? Mr. Sullivan stated that this doesn't change the CUP process and there will be community meetings and public hearings.
- Vice-Chair Siverson asked, where are the towers going to be located? Mr. Glenn stated that there are two proposed sites, Silk Hope and Moncure near the fire department.
- Ms. Moose asked if any public safety service providers need to request a waiver for 400' or do they just need to meet the three requirements, such as a federal entity like FEMA. Mr. Glenn stated that it is the same process. Mr. Sullivan stated that it is not a waiver, but the pre-criteria needs to be addressed during the application process.
- There was Board discussion about the 400' height and why not allow the towers to be taller. Some Board members mentioned that there was a lot of public pushback when they went up to 300'. There is also a lot of different reactions by the public, some people want towers and others do not want the towers and the flashing red lights. The discussion also mentioned that the public should be more receiving of the tower because it is for emergency services.
- The Planning Board discussed making a motion to approve this request with the addition of the 400' height limit on the towers.

Motion made by Mr. Spoon to approve the ordinance text amendment and adding the 400' height restriction; second by Ms. Hager.

Motion passed unanimously, 11-0

1. NEW BUSINESS:

1. Discuss options for establishing additional zoning standards for assembly occupancies in residential zoning districts.

PUBLIC INPUT:

- Ms. Anne Fuller of 204 Hogan Farm Rd spoke and had some comments. She thanked the Planning Board concerning her and her neighbor's public and private issues. She stated that there was an e-mail sent late in the afternoon by Mr. Scott Wilson who is a retired surveyor. This e-mail has some recommendations when considering different standards for this topic. Ms. Fuller stated that if there is going to be a large assembly in a private neighborhood, it would be good to have a public hearing so neighbors can voice their concerns. Ms. Fuller also stated requiring vehicular access to the Right-of-Way

meeting DOT standards and not giving access to the place of assembly through a private road is requested. She also mentioned that this road should allow emergency vehicle access as well. Ms. Fuller mentioned that the requirements should include impervious surface restrictions. She mentioned outdoor lighting and inspections to enforce these restrictions. Ms. Fuller asked if this public assembly ordinance or standards will apply to the issue they are having on Hogan Farm Rd.

Mr. Sullivan stated that any rule changes on the zoning side would not be retroactive to that church or any church in the County, it would only apply to new structures that do not already have vested rights. Ms. Fuller stated that she understands that, what she is referring to is their big events. Mr. Sullivan stated that there are multiple departments that have different responsibilities. The Fire Marshal has been in conversations with them about some issues about access to the property and maintaining access along Hogan Farm Rd. That plan has not been submitted yet, but they are required to comply with the fire code.

- Ms. Fuller stated that they are planning on using Hogan Farm Rd which is a private road to their public place. She asked the Board and staff, why are you going to allow them to do that? Mr. Sullivan stated that they do not have any legal authority to stop them. That is why the restrictive covenants are so important, the County does not regulate easements and that is why there needs to be restrictive covenants written. It is a civil matter between the property owners.
- Ms. Fuller asked Ms. Birchett if the Phase 2 of the temple site has been submitted. Ms. Birchett stated they do not have anything submitted at this time. There was some discussion about access through the private Hogan Farm Road and the access to the temple. It was said that they own part of that road and they can use it and the County doesn't regulate it. It will need to go to court to be settled.

Chair Lucier informed Ms. Fuller of the Plan Community Act which is a State template as to what HOA organizations can do to help regulate their neighborhood. He encouraged her to look into this Plan Community Act.

Board Discussion followed and some items discussed were as follows:

- Ms. Birchett stated to the Planning Board that the planning staff wanted to start the discussion about different standards and ideas that might have been researched. She mentioned Mr. Spoon's handout and the standard ideas listed. Ms. Birchett also informed the Board that the table of uses from the zoning ordinance was provided and the highlighted items are considered assembly uses. She stated that the staff will be researching other Counties to see how they regulate assembly uses by the criteria and thresholds they use.
- Mr. Sullivan stated that he wanted the Board to get an idea of the wide range of uses that are highlighted. We need to look at the wider range of uses such as schools, not just churches. He also asked them to keep in mind the public hearing process and public input. Mr. Sullivan stated that what was previously proposed by the neighbors on Hogan Farm Rd. was to require a CUP for just churches, which is a problem. However, to require a CUP process to all assembly uses can be considered as long as it is across the board. Mr. Sullivan informed the Board that they are having more of these issues with assembly uses in areas where the County is growing and not an issue in other parts of the County. He asked them to keep in mind that any standards or restrictions adopted will be throughout the entire County. He stated that there will be a time and cost associated with a CUP process.
- Mr. Spoon gave an example of a small church in the western part of the County that none of the neighbors have a problem with on a private road. How much can the Planning Board help them make that process

easier for them? Will they need to hire a lawyer and a surveyor to draw a site plan for the CUP? Mr. Sullivan stated that they are not required to hire a lawyer, but it certainly helps with the process.

- A Board member asked the cost of a CUP. Ms. Birchett stated that it is \$500 plus \$25 per acre. There was Board discussion about all the different fees and costs that are involved in the CUP process.
- Mr. Frazier stated that about 40% of the highlighted uses provided already require a CUP. He asked if the staff was suggesting that there needs to be changes in that process because they are place of assemblies or to apply a CUP to all of the uses. Ms. Birchett stated that they were provided to develop standards and what uses the standards are going to be applied.
- Mr. Sullivan recommend to have site specific standards for places of assemblies even if we require CUP for all of them.
- Chair Lucier asked, what is the process to adopt these standards? Mr. Sullivan stated that tonight we are introducing the topic and if there are specific things you would like the staff to research, the staff can research it and bring it back to the Planning Board. He stated that the staff has some general direction and can start drafting up some text amendments. Mr. Sullivan stated that once the Planning Board is finished discussing the item then it can be scheduled for the BOC meeting and have a public hearing. Chair Lucier stated that he is struggling with the CUP process idea and the burden it places on some organizations.
- There was some Board discussion about how Daycare centers are broken into two different categories where one requires a CUP and the other requires permits. There was some discussion about performance standards of other jurisdictions and how we can apply them to Chatham County. It was asked if other jurisdiction's performance standards can be discussed at the next meeting.
- Mr. Spoon referred to the ideas he had on his handout such as all assembly purposes within residential, agricultural, and conservation areas shall either have access to a public road, have written approval from all other property owners with access rights to a private road, or be the sole user of a private road. He also stated that all assembly purposes shall host a public meeting with all adjoining property owners prior to plan approval. Lastly, assembly purposes are defined as Performance Measures. Mr. Spoon also stated that he is frustrated that citizens were voicing their concerns to the Planning Board with legitimate problems, but there is not a tool in our statute to help them with these issues.

Ms. Weakley stated that this draft is a great start and the second point about the written approval to access on a private road would have been beneficial to the previous zoning item.

- Mr. Galin asked how many problems the County has currently like on Hogan Farm Rd's place of worship. Ms. Birchett stated as of right now there are not any other issues like that. There was Board discussion about the cricket field and how it is similar to the temple issue. Mr. Galin stated that he wanted to take church issues on a case by case basis because there will be severe pushback if we start to regulate churches.
- Mr. Sullivan suggested that maybe there could be a set of standards that says places of assembly that meet a certain type of criteria and administration. Or there could be three different levels, direct access

to a public road with certain criteria, and if it is a school, church, or daycare it is handled through staff. If they don't meet any of these criteria then they have to apply for a CUP.

Chair Lucier stated that is a good starting point and also have something with the number of people involved in the place of assembly. Mr. Spoon stated that is where the performance standards come into play. Ms. Weakley asked if the Board could get a list of good performance standards as a starting point.

Mr. Wilson showed concern about putting standards on the number of people because that would keep an assembly from growing. If they started growing with different investments and buildings, then reach a certain capacity they would have to go through a CUP process because of growth. Ms. Hager stated that as far as the number of people is concerned, that should be a fire code issue and a traffic issue, regulated based on the challenges that increased population cause. Don't have a certain number of people a church is allowed to have. Vice-Chair Siverson stated that Mr. Wilson has a good point about church growth.

Chair Lucier stated we should consider having a CUP for those larger places of assemblies. If it is a small assembly such as a small church, or a 501c3, they don't go through that CUP process, but if is a larger assembly, they have the financial means to go through the CUP process.

- Mr. Wilson stated that the CUP process is subjective to how the adjoining neighbors feel about it. If the neighbors don't approve, then the application is denied and then they find a different parcel and then that can be denied. Ms. Weakley stated that there is the finding of facts in the CUP process. Does it benefit public health, safety welfare, and is it consistent with the Land Use Plan.
- Ms. Moose asked does anyone know what the attendance of a typical small neighborhood church is. Mr. Wilson stated that has changed. Years ago it would be about 100 people, but now you can have about 300 or 400 people. He stated that there are regulations in place because of the size of the building which will determine how many parking spaces you can have, plus fire code requirements. Mr. Wilson also stated that it is getting popular in the urban setting to park remotely and shuttle to the church. Mr. Wilson also stated that churches always have special events, anything other than one service is a special event.
- Mr. Galin stated let's not over regulate places of worship. There was Board discussion about legitimate and illegitimate reasons for an adjoining property owner not wanting a church or place of assembly near their property.
- Chair Lucier stated we can't just be thinking about churches, we must consider all the different places of assembly uses. We have to be careful if we were to place some performance standards on something, will that make it difficult for the County to develop schools. Could it hamper all the 501c3 organizations that want to be in the County?
- There was Board discussion about access to the place of assembly via public roads or private roads and what should be placed in the standards. Ms. Weakley stated that the standards from other jurisdictions will help and guide them with the performance standards.
- Mr. Frazier stated that he had done some research on churches and the most common issue was noise complaints. He asked if the staff could look at placing a standard on noise. There was Board discussion about placing restrictions on noise. Chair Lucier stated that you can't treat a church more strictly than other places of assembly, but you can treat other places of assembly more strictly than churches.

