



**Chatham County Planning Board  
Approved Minutes  
May 7, 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:

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

Absent:

Bill Arthur  
Jon Spoon

Planning Department:

Jason Sullivan, Planning Director  
Kimberly Tyson, Planner II/Subdivision Administrator  
Janie Phelps, Zoning Official  
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 Lucier called the meeting to order at 6:30 p.m.
- III. DETERMINATION OF QUORUM:  
Chair Lucier stated there is a quorum (8 members were present, Mr. Wilson arrived at 6:45)
- IV. APPROVAL OF AGENDA:  
Approval of the Agenda - Chair Lucier asked the board members if there were any issues with the Agenda. There were no objections and the agenda was approved.
- V. APPROVAL OF THE MINUTES:  
Chair Lucier asked for consideration for approval of the April 2, 2019 minutes with a few minor proposed changes. There were no objections by Board members and the April 2, 2019 minutes were approved. Motion was made by Vice-Chair Siverson to approve; second by Ms. Weakley. Motion passed with a vote of 8-0, unanimous.
- VI. PUBLIC INPUT SESSION:

- Chair Lucier asked if there were citizens signed up to speak. Clerk Garrett informed the Chair that there were several citizens that have signed up to speak on the third zoning item on the agenda and one person to speak on an item not on the agenda. Chair Lucier asked the citizens for the zoning item to speak when that item was before the Planning Board and to have the other citizen to speak now.
- Allison Snow of 85 Isabel Ct. spoke and had a few comments. She stated she lives in the Cattail Creek neighborhood and she has concerns about the public notices for the Planning Board meetings and public hearing. Her understanding is that the adjoining land owners to a parcel are notified if something was happening with a particular parcel, but when that parcel is part of a subdivision, she feels all of the home owners within the subdivision should be notified. She stated the initial developer had come before the Planning Board several times, with phases 3, 4, and 5 and the developer was under increasing financial pressure, in turn modified the lot sizes smaller. She stated the average lot size of the neighborhood was supposed to be 2 acres, but now it is 1.9 acres. Ms. Snow feels this will impact the home owners' property values. Ms. Snow stated the last extension will expire in November of 2019 and the new purchaser bought the land in 2017, and has just now applied for the erosion control permit. Ms. Snow asked the Board going forward, if a parcel is part of a subdivision to notify all of the land owners in the subdivision.

Chair Lucier stated usually when a plan is approved there is a set number of lots and they can't add to those lots. Chair Lucier stated he would like Mr. Sullivan to explain how the Planning Department notifies property owners about zoning issues or change in subdivision items.

Mr. Sullivan stated if there is a piece of property that is being rezoned or a subdivision issue, letters are mailed to the adjoining property owners not to everybody in the subdivision. There are some smaller subdivisions where there might be 10 lots, but there are other neighborhoods that might have 1600 lots. Mr. Sullivan stated they are legally required to mail notices to the adjoining property owners and if there is a Home Owners Association the Planning Department tries to send them a notice as well to inform the neighbors. Mr. Sullivan stated the Planning Department doesn't have the staffing capability to try to send letters to all the property owners who request them and it would be better if there was an HOA representative for the development.

Ms. Snow stated they do not have an HOA, but she would be willing to take on the responsibility to inform all of the neighbors with notice information. Mr. Sullivan stated if the residents in the community say she can act on their behalf, it is okay with the Planning Department. Ms. Snow said she just wants to accept notice and disseminate it. She said there is 55 homes in the neighborhood and maybe only 5 of them are adjacent land owners.

- Chair Lucier stated to Ms. Snow she might want to talk to the neighbors to establish an HOA with 2/3<sup>rd</sup> of the homeowners in agreement. Ms. Snow stated that will not happen. Mr. Sullivan stated at this point there will not be any more notifications for Cattail Creek. Ms. Snow said their permit expires at the end of November. Mr. Sullivan stated they have an approved erosion control plan, they still need to apply for the permit and there were some revisions to the road extension required by the DOT. Once they receive the permit they will start construction, if they don't and the project expires they will be requires to restart the entire process under new regulations. Ms. Snow said at some

point this will have to be revisited because this has been going on for a long time and they will need to come back for a 4<sup>th</sup> extension.

- Chair Lucier asked Mr. Sullivan if the Planning Department can try to notify Ms. Snow if anything is happening with the development. Mr. Sullivan stated yes, as long as there is notification required. Ms. Snow stated she would just like to know when the adjacent property owners are notified. Mr. Sullivan stated the Planning Department will try their best to remember that, can't guarantee it, but they will do their best.
- Vice-Chair Siverson suggested to Ms. Snow to look on the Chatham County website for any updates. Mr. Sullivan suggested to also sign up for the e-notification tool on the website as well, that way she will be notified for all BOC and Planning Board meeting agendas. He stated if there isn't grading in a month or so, the likelihood of them meeting the November deadline will probably not occur, but they are trying to push to get to 40% completion prior to the November deadline. Ms. Snow stated this has been a very long process with the inability to find the truth about what is happening. Chair Lucier stated there is now a mechanism for Ms. Smith to be notified if that arises. Ms. Snow thanked the Board.

## VII. SUBDIVISION:

1. Request by Lee Bowman, Project Manager, on behalf of NNP Briar Chapel, LLC for subdivision **Final Plat approval of Briar Chapel, Phase 16 North**, consisting of 56 lots on 32.818 acres located off Middleton Place, parcels 82829, 1184, and 2177.

Ms. Tyson gave an overview of the staff notes and she reported that this is a Compact Community with public water, private wastewater treatment plant, with no floodable area in Phase 16, and under pre-2008 Subdivision Regulations. The Planning Board has two meetings to review and make a recommendation on the request. The request is for Final Plat approval of Briar Chapel, Phase 16 North consisting of 56 lots on 32.818 acres with a financial guarantee for the completion of required infrastructure. Phase 16 North received preliminary plat review and approval by the Board of County Commissioners on August 20, 2018 for 56 lots. The submittal includes a request for a financial guarantee for completion of the required infrastructure. Under the pre-2008 Subdivision Regulation, a project must have a minimum of 40% of the infrastructure completed prior to submittal of a final plat and the roads must be accessible to emergency vehicles. A cost estimate letter, dated April 12, 2019, has been provided by Chris Seamster, PLA, McKim & Creed, Inc. stating that the required infrastructure is 41% complete. The cost letter may be updated prior to plat recordation if additional work has been completed. Staff recommends granting the request for a financial guarantee. Staff also recommends that the final plat not be recorded until the engineer has certified that the roadway providing access to the parcels are accessible to emergency vehicles and recommends that the final plat not be recorded until the county attorney has reviewed and approved the form of the contract and financial guarantee.

Ms. Tyson stated per the approved preliminary plat, roadways are proposed to be public and state maintained roads. There are no private alleyways and no additional parking in Phase 16 North. Middleton Place is an extension of an existing road within Phase 16 South. A small portion of Middleton Place will extend into US Steel and six (6) lots in US Steel are proposed to front on Middleton Place. Phase 16 North has two common areas, Common Area #86 and Common Area #87. As shown on the plat, Common Area #86 has 20.619 acres and Common Area #87 has .930 acres. Common Area #86 has a common boundary with Persimmon Hill Subdivision and Twin Lakes Golf Course. Common Area #87 has common boundary with US Steel.

Ms. Tyson also stated the Riparian buffer widths of 50 feet per side, measured from top of bank landward, have been shown on the plat. There are two stormwater features in Phase 16 North. Final plat information includes the approximate BMP location using top of bank of the existing features and has been reviewed and approved by Watershed Protection staff. The required stormwater note regarding the Operations and Maintenance Agreement and the maintenance responsibility of the stormwater features is included on the final plat. The following condition was added to the preliminary plat approval for this phase – “The final plat shall show a uniform buffer adjacent to the wetland located between the US Steel property and Briar Chapel.” A uniform buffer is shown on the final plat between the US Steel/Briar Chapel boundary and the Middleton Place right-of-way.

Ms. Tyson said that the Technical Review Committee met on April 17, 2019 to review the request. Staff discussed private and/or public drainage easements, visit to the cemetery on parcel 1184, and if there’s connectivity of the streams. There was no representative present for the TRC meeting, but Chris Seamster provided additional information via email. Per Mr. Seamster’s email dated April 23, 2019 public drainage easements are marked correctly and based on the delineation the streams aren’t connected. Bev Wiggins with Chatham County Historical Association plans to visit parcel 1184 to record the cemetery within the next few weeks. The subject property is located in an area designated as Compact Residential which allows a mix of detached and attached residential units complemented by a variety of open spaces. Phase 16 North will have 56 single family detached homes on 23.92 acres. Compact Residential allows community centers, amenities, recreational uses, schools and churches. Briar Chapel development has various amenities including parks, walking trails, club house and pool, along with public schools either within the development or on adjacent properties. Compact Residential areas are to be connected by a system of local and collector streets. Phase 16 North has public roadways connecting to the balance of Briar Chapel.

Ms. Tyson said in closing that the Planning Department recommends granting final plat approval of “**Final Subdivision, Easement, and Right-of-Way Dedication Plat of Briar Chapel Development Phase 16 North for NNP Briar Chapel, LLC**” with the following conditions:

1. Prior to final plat recordation the county attorney shall approve the form of the contract and financial guarantee.
2. Prior to final plat recordation the engineer shall certify to the county that there is all weather access for emergency vehicles and the certification must be approved by the Fire Marshal.

Ms. Tyson 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 Siverson asked for the location of the cemetery. Ms. Tyson stated the cemetery is north of the phase on parcel 1184 and she showed the Planning Board the location of the cemetery with the GIS application.
- Ms. Weakley mentioned the streams were shown on the plat as not connected, but she thought the Riparian Buffer standards has a carried down rule. If a stream is classified as intermittent, whether or not there is a physical channel, if there are breaks, then it gets carried down regardless because there is hydrological connection. Mr. Sullivan stated that was post-2008 standards and he recall’s documents being drafted, but unsure if they were approved by the BOC. He stated that would not apply in this situation because these are buffers under the Compact Community Ordinance. When Briar Chapel was approved in 2005 there was a buffer map that was generated and was part of the approval, but these series of streams in this area were not included in the original approval and were not added until 2017.

Ms. Weakley asked if all the streams on this plat are intermittent. Mr. Seamster stated yes, all streams are intermittent until past the pond on the west side, which is where it ties into the perennial and larger streams. Mr. Seamster stated the stream going along the southern length of the property is intermittent.

- Ms. Weakley stated this is an important point, the streams weren't added until after they applied for their 401 and 404 permit/certification. Mr. Bowman stated that they were part of the 401 and 404 and discovered this administrative error when they were working on Phase 16S a few years ago. Mr. Seamster stated the maps signed by the Army Corps showed the stream continuing on across and they brought it up to the County and showed it on the Concept Plans and Sketch Plans. It is on the plan now because it is supposed to be there and it is on the signed stream delineation maps. Mr. Bowman stated that this was on the Preliminary Plat as well.
- Ms. Weakley stated she had voted against Phase 16S because the plat shown a stub-out rather than a cul-de-sac near the stream and that is why this stream crossing is even a possibility now. She stated they have the US Army Corps permit to cross the stream, but it wasn't reflected on the master plan that was approved by the County. Ms. Weakley stated that at the public hearing Briar Chapel was not going to request anymore waivers, but they did for this stream crossing. She stated the Planning Board had discussion about this on July 10, 2018 and May 2, 2017, then the environmental review board reviewed this item. Ms. Weakley stated the BOC made their decision on that item, but she cannot vote to approve the item.
- Ms. Weakley asked about the US Steel conservation subdivision 6 lots being included in the phase. Mr. Sullivan stated those lots are not part of this phase and there have been no switching of lots between US Steel and Briar Chapel. Mr. Sullivan stated when the preliminary plat was submitted the staff had requested Mr. Seamster to show the location of those 6 lots of US Steel for referencing and administrative purposes. Ms. Weakley stated it is a little misleading. Mr. Sullivan stated they will not be shown on the final plat.

Ms. Weakley asked Mr. Seamster why they will not show a 50' continuous buffer that is in the common area. Mr. Bowman and Mr. Seamster stated that they will comply with that request.

Motion made by Mr. Wilson to approve this item with 1 additional condition: The final plat shall add a continuous buffer between disconnected streams. Second by Ms. Hager.

- Ms. Weakley stated that she will not vote to approve this item because of the conflict with the stream crossing, but she appreciates their willingness to add the continuous buffer.

Motion passed 8-1, Ms. Weakley opposed.

#### VIII. ZONING:

1. A quasi-judicial public hearing request by Antoinette L. Van-Riel for a conditional use permit revision on parcel 19430, being approximately 3 acres, located at 781 Mt. Carmel Church Rd, to add the use of office – business, professional, and governmental, Williams Township.

Ms. Phelps gave an overview of the staff notes and she reported that a quasi-judicial public hearing was held on the conditional use permit (CUP) revision request April 15 2019. Planning staff presented the application.

The owner of the proposed business, Mr. Ronnie Cardwell with Keston Care, introduced himself to the Commissioners and stated they have approximately 5 employees and were seeking a general office use to be added to the current CUP. No one else spoke on the matter. A conditional use permit (CUP) for a landscape design business and lawn and garden shop was approved on this parcel on December 9, 2002. The CUP was amended April 7, 2003 to add the use of food stores, retail, specifically for retail sales of specialty coffee and baked goods. The CUP was amended again on June 21, 2010 to add the use of personal service shop specifically for exercise instruction, massage and physical therapy, acupuncture, and Bodywork for physical health. There have been no zoning violations on this property.

Ms. Phelps stated 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.”

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 Business 1 for a landscape design business, lawn and garden shop, food stores, retail, specifically for retail sales of specialty coffee and baked goods, and personal service shop specifically for exercise instruction, massage and physical therapy, acupuncture, and Bodywork for physical health. The adjoining parcel to the west is zoned R1, Residential. The property to the north is zoned Conditional Use Business 1. The property to the east is the Governors Club Planned Unit Development. The adjoining property to the south is zoned Conditional Use Office & Institutional for general and professional offices. “Office – business, professional, and governmental” is an allowable use in Business I zoned properties. 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. Currently, Keston Care operates in office space located in Chatham Crossing. There is limited access for their employees, clients, and the public. The applicant contends that this location will provide better access and be more convenient to their clients, the public, and their employees. 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 applicant proposes to utilize the property solely for office use and they anticipate lower traffic volumes than previously occurred. There are no proposed changes to the landscaping or lighting, and no increased noise levels. The existing sign will be refaced with the name of the business. The property is currently developed below the allowable built upon. Approximately ¼ acre is BUA out of the approximate 1.08 acres that would be permitted without curb and gutter. 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 uses currently occurring on the property will discontinue and the property will be solely used for office space. The property is located in a Rural designation and the description includes a “Mix of uses include agriculture, large lot residential, supporting service uses, and home-based & small scale businesses”. Economic Development Policy 1 states, “Provide flexibility for rural businesses that have limited impact on adjacent properties and preserve rural character”. Health policy 7 states, “Facilitate the integration of

various types of healthcare facilities into developed and developing areas”. 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. No changes are proposed aside from the change in use. All utilities, road access, landscaping and other required site specific details will continue to be in compliance with county regulations. It is planning staff opinion this finding has been met. Based on all five findings being supported, planning staff supports the CUP revision request.

In closing Ms. Phelps stated 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. All existing conditions shall remain in effect, except as modified by this conditional use permit amendment.

**Standard Site Conditions**

1. 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.
2. 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:**

3. 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.
4. Continued Validity – The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditional listed above.
5. Non-Severability – If any of the above conditions is held to be invalid, this approval in it’s entirety shall be void.
6. 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. Phelps said Mr. Ryan Cardwell is available to answer questions for the Planning Board.

Board Discussion followed and some items discussed were as follows:

- Chair Lucier stated this request would be adding office space to the list of approved uses. Ms. Phelps stated he was correct.

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

- Ms. Weakley asked if this was completely built out. Ms. Phelps stated that it is built out and they do not propose to make any additions. Ms. Weakley stated they can still add on and then would they have to add back those other uses. Ms. Phelps stated they could add on, but the uses are still in effect.

Mr. Sullivan stated they have a site plan that is tied to the CUP permit and if they were to make any changes they would need to come back through the process for a CUP amendment. Ms. Weakley asked if impervious surface would be tied to the site plan. Mr. Sullivan stated if the area of a parking lot needs to be enlarged by a slight amount the staff will use their judgment and most likely not make them go through the CUP process, but if any building is added, that will require a CUP amendment.

Motion passed unanimously, 9-0

2. A legislative public hearing request by Chatham County ABC Board to rezone parcel 83475, being approximately .80 acres, located off Moncure Pittsboro Rd, from R-5 Residential to General Use Neighborhood Business, Haw River Township.

Ms. Phelps gave an overview of the staff notes and she reported that a legislative public hearing was held on April 15, 2019. Planning staff introduced the request and Patrick Bradshaw, attorney for the applicant, provided a brief statement and summary of the request. Patti Dukes also spoke representing the 3 Rivers District Group and presented a petition with approximately 50 signatures requesting a denial of the rezoning request. Reasons stated were an ABC store in this location would not be a good representation of the area, not the best use of the land, and there are school bus stops nearby. No-one else spoke on the request.

Ms. Phelps stated the property that is under consideration for rezoning is currently zoned R-5, Residential. The allowed uses in these districts are residential and the minimum lot sizes are one dwelling unit per five acres average, with no lot smaller than three acres. The requested zoning of Neighborhood Business (NB) is "meant to serve a small retail market, roughly equivalent to the trade area of a small (40,000 square foot) grocery store and limited ancillary services. No building within this district shall exceed 40,000 square feet and the cumulative building square footage shall not exceed 160,000." Since this is a general use rezoning request, the Planning Board and Commissioners must consider all uses that would be allowed within the NB district.

Ms. Phelps also stated the property is located off of Moncure-Pittsboro Road and approximately 100 feet from US 1, which is a 4 lane divided median freeway. The property has no structures and the adjoining properties to the north, south, and east are owned by the applicant for this rezoning request. The properties to the north, south, and east are zoned General Use Neighborhood Business and the parcel to the west is zoned R-5, Residential. The property is located within a River Corridor Special Area watershed district, which does not restrict non-residential uses. There are also no water features identified on the USGS Topographic or Natural Resource Conservation Service maps or special flood hazard areas. Section 19 of the Chatham County Zoning Ordinance outlines four standards that must be addressed for this type of zoning map amendment.



Finding 1. In response to any alleged error in the Ordinance, if any, which may be remedied by this proposed amendment, the applicant claims none. It is planning staff opinion this standard is met.

Finding 2. The changed or changing conditions, if any, in the area or in the County generally, which make the proposed amendment reasonably necessary for the promotion of the public health, safety, and general welfare. The applicant owns three adjacent properties to the subject property that were rezoned to General Use NB in 2016 and 2017. There are other properties in close proximity that are zoned non-residential. This additional 0.8 acres is landlocked and has limited development potential due to lot size being less than what would be required for development. The applicant will utilize this property to offset built upon area requirements and add open space to the project already under consideration as noted in the rezonings from the previous two years. It is planning staff opinion this standard is met.

Finding 3. The manner in which the proposed amendment will carry out the intent and purpose of the adopted Land Use Plan or part thereof. The property is located in an area designated as Conservation on the Future Land Use and Conservation Plan Map, which encourages development that is predominately residential, passive recreation areas, greenway trails and some tourism related uses allowed. The adopted Comprehensive Plan encourages commercial development in village, community, and employment center nodes. Although this property is not located in one of these nodes, it is within close proximity to the Village and Village Center node that is centered on the Moncure community. The adjoining properties on the north, east, and south are also zoned Neighborhood Business. It is planning staff opinion this standard is met.

Finding 4. Other circumstances, factors, and reasons which the applicant offers in support of the proposed amendment. Neighborhood Business is the least intensive business district provided in the Zoning Ordinance and the RCSA watershed district also allows more flexibility than River Corridor. The use also continues the promotion expanding businesses in the Moncure area as noted in the Comprehensive Plan under the description of Villages on page 48. The description includes a "mix of uses including retail, restaurants, services, and office uses clustered near a village center (typically consisting of smaller commercial footprints than office centers (>30K SF), although can be more if appropriately designed)." Strategy 4.4 under the Economic Development Plan Element (see pg. 56) encourage "Permit[ting] 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." Although a use has not been established on the adjoining properties, the applicant intends to construct a neighborhood business use on the properties and this parcel will provide more flexibility for the overall site plan. The property is also located within the RCSA (River Corridor Special Area) watershed district and is limited to 36% built upon area without the use of curb and gutter. The RCSA district does allow for up to 50% built upon area with approval of a special non-residential intensity allocation (SNIA). Although the properties are located within 2,500 feet of a major river, this is less restrictive than RC (River Corridor). As a result, there are fewer limitations on the types of non-residential uses allowed than are listed in River Corridor district. The impervious surface limitations aid in the protection of water resources and environmental protection. It is planning staff opinion this standard is met.

Ms. Phelps stated in closing it is the opinion of the Planning Department all standards are being or will be met through permitting requirements and therefore the rezoning request should be approved. The Planning Board is requested to review this rezoning and make a recommendation for approval or denial to the Board of Commissioners. You have up to three meetings in which to provide that recommendation. Should your recommendation be for approval, it is requested you also review and approve a consistency statement. A proposed statement is provided below.

It is the opinion of the Planning Board that the rezoning request to rezone Parcel No. 83475, being 0.80 acres, is consistent with the goals and objectives of the Comprehensive of Chatham County. Specifically, the property under consideration for rezoning is located adjacent to property that is zoned neighborhood business and Strategy 4.4 under the Economic Development Plan Element supports the expansion of existing business. The property is also located within close proximity to the Moncure Village and Village Center node.

Ms. Phelps said Mr. Patrick Bradshaw is available to answer questions for the Planning Board.

Board Discussion followed and some items discussed were as follows:

- Mr. Sullivan informed the Planning Board there is a handout for each Board member provided by the applicant of a petition to approve the rezoning. This petition was signed from people ranging from many different areas.
- Chair Lucier asked what the total acreage would be with this parcel added to the additional parcels. Mr. Bradshaw stated he is the applicant's representative and the total size will be just under 5 acres once the .8 acre parcel is added. Mr. Bradshaw stated this is a small parcel and is not large enough to be developed independently and landlocked. The current owners do not have the ability to access or use the land. Mr. Bradshaw stated the property that the ABC Board already owns has been rezoned to commercial use and it makes more sense to add this parcel and allow improvements to be set further from the road. Mr. Bradshaw introduced Mr. Ryan Lockamy, a lawyer who represents the Watson heirs, the current property owners of the .8 acre lot. Mr. Lockamy stated he is a lawyer practicing in Durham and has helped the Watson heirs go through a judicial partition with the Clerk of Court in order to be approved to sell this property. This parcel is family land that has been passed down through generations with a lot of owners. Mr. Lockamy stated with this property being landlocked with no access, the owners want to sell the property and no longer pay the taxes on it and this is a good opportunity for the family to sell this property that they cannot use.
- Chair Lucier asked if the ABC Board has purchased this property yet. Mr. Bradshaw stated that it is under contract. Mr. Lockamy stated he has been appointed by the Clerk of Court to oversee the sale of this property and the heirs are in full support of the sale and the rezoning.
- Chair Lucier asked the Planning staff to explain the Special Non-residential Intensity Allocation (SNIA) and what that means with the 36% and 50% impervious surface. Mr. Sullivan pulled up the GIS application to help show the Planning Board the Special Non-residential Intensity Allocation. He stated areas near the River Corridor has severe limitations on built upon area and uses. Mr. Sullivan stated the River Corridor Special Area has no restrictions on use and has greater flexibility on built upon areas. He stated that applicants are allowed 36% built upon area for non-residential uses as well as the River Corridor Special Area, except there is a provision that the County staff can authorize up to 50% built upon area on any of those properties under what is called a Special Non-residential Intensity Allocation. Chair Lucier asked if the staff can deny that request. Mr. Sullivan stated the staff could deny the request, but it might be legally questionable because there is no criteria in the Watershed regulations as it related to how to evaluate SNIA in the River Corridor Special Areas. He stated in this area it would be hard to deny a SNIA.
- Chair Lucier asked Mr. Bradshaw what is the intent for the ABC Board. Mr. Bradshaw stated he has not heard any intent to request a SNIA for this property. He did state the River Corridor Special Area was

designed to encourage economic development activities in these particular areas. Mr. Sullivan stated they are going to have to site their septic system, landscaping, and building setback areas and there will be areas that they will not be able to build upon with impervious surface. He stated they can request additional impervious, but there will be parameters to work around. Chair Lucier asked, what are the setback requirements? Mr. Sullivan stated the setbacks are 50' front and 20' side and rear.

- Mr. Frazier asked with the addition of this parcel, does the ABC Board plans change for this property? Mr. Bradshaw stated when the Planning Board is considering a general use rezoning, you are not allowed to really consider a specific use, you need to consider all the potential uses in the zoning district and decide if this location is appropriate for those uses. Mr. Bradshaw stated adding this parcel gives the property a more regular shape and depth to the site away from Moncure Pittsboro Road allowing flexibility for improvements.
- Chair Lucier stated he assumes the current ABC store location will be moved to the new location. Mr. Bradshaw stated yes, and as the current site has changed, it has become an unworkable site because it is basically underground at this point.

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

- Ms. Hager stated there was a statement about family land being negatively impacted and asked if there was anyone here tonight that might be negatively impacted by this rezoning. Clerk Garrett informed Ms. Hager that there was not any citizen signed up to speak on this item for public input. Ms. Phelps stated that the adjoining property is all owned by the ABC Board and the rear parcel is owned by Powell Chatham, LLC. Mr. Bradshaw stated he did not know what that reference was to, but they have not had any communication to whoever that family is and no objections by the adjoining owners.
- Ms. Moose asked if there was any concern about having this go forward with more land in a conservation area and be subject to the 50% built upon area. Ms. Weakley stated she has concerns because as stated in the Planning Board notes, "buying this parcel the applicant will utilize this property to offset built upon area requirements". She stated if the soils are not able to perk, you need more land and the plan is to add this parcel to maximize the impervious surface and available areas for septic. Ms. Weakley stated in her opinion, this is not a reason to rezone this property in a conservation area and right up against the Deep River.
- Mr. Bradshaw stated this is a small property owned by heirs that have been paying taxes for generations that is not usable for them and not useable by anyone else. The property will allow the ABC Board property to be used in a more sensible way.
- Ms. Weakley stated this is scope creep, purchasing parcels over time to rezone. Mr. Bradshaw stated it is not fair to impute a sinister motivation, the ABC Board first started looking at this site because the ABC Board needed to move their store. They didn't think they were going to be able to purchase the Watson property because of the Title issues and have worked for years and resent months with Mr. Lockamy to solve those problems. Mr. Bradshaw stated there is going to be a commercial use of that site, the only effect not approving this rezoning will have, will be to leave the Watson family with a .8 acre parcel that they can't do anything with.

Ms. Weakley stated she wants to prevent scope creep and the amassing of property to benefit someone who may want to develop that site to 50% impervious surface right on the Deep River. Mr. Bradshaw stated the ABC Board has no intension of acquiring anymore property and they have enough to do what they intend to do.

- Ms. Weakley asked if the soil will perk and if it is sufficient for building the required square foot building. Mr. Matt Williams the general manager of the current ABC store stated the land does perk on the property towards the back and the building max square footage will be 5000sqft. Ms. Weakley asked if they acquire this additional parcel will the building be larger. Mr. Williams stated no, it actually might be smaller.
- Chair Lucier reminded the Planning Board that there is a motion and a second for the consistency statement.

The consistency statement is stated as: It is the opinion of the Planning Board that the rezoning request to rezone Parcel No. 83475, being 0.80 acres, is consistent with the goals and objectives of the Comprehensive of Chatham County. Specifically, the property under consideration for rezoning is located adjacent to property that is zoned neighborhood business and Strategy 4.4 under the Economic Development Plan Element supports the expansion of existing business. The property is also located within close proximity to the Moncure Village and Village Center node.

Motion passed 7-2, opposed by Ms. Weakley and Ms. Moose.

Motion made by Mr. Frazier to approve this rezoning item; second by Mr. Galin.

Motion passed 7-2 opposed by Ms. Weakley and Ms. Moose.

3. 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. Phelps gave an overview of the staff notes and she reported that this is the third and final meeting for the Triangle Cricket League. They have provided a fifth alternate to the site plan and that is what is under discussion. Ms. Phelps stated on this site plan Hwy 64 easement is to be used for maintenance only.

- Chair Lucier stated there are several people signed up for public input for this item and has asked the citizens to limit their comments to three minutes.

#### PUBLIC INPUT:

- Mr. Charles Walker the representative of the applicant stated the site plan that is before the Board was built on negotiations with the neighbors as the Planning Board had instructed. He stated there had been progress, but on Friday afternoon he received a phone call from Ms. Brooks who was one of the signatures for the easement agreement from Hillside Dairy Rd. She informed Mr. Walker that she no longer felt comfortable supporting the use of the easement. Mr. Walker stated Mr. Gaines is present at the meeting tonight and he is still in support of the use of the easement, but does not wish to speak at the public input. He also stated he spoke to the owners of the large track on the east side of the property and they do not have any objection as well as Ms. Spivey. Mr. Walker informed the Board that this site plan is not the first step of a commercial building or a shopping center, what is on the site plan

is all that will be on the property. Mr. Walker stated they have tried to make revisions as possible, but when they fix one area it causes issues somewhere else. He stated the largest issue is the access to the property and he understands that there are some neighbors here tonight from Hillside Dairy Rd that have problems with connection on that road. Mr. Walker stated using the easement off of Hillside Dairy Rd. was the more environmentally friendly option because there would be no need to cross the stream and an easement already exists. He stated the other option is to use the easement off of Hwy 64 and Ms. Spivey has volunteered an easement on her property.

- Ms. Lynda Smith of 7134 US Hwy 64W spoke and had a few comments. She stated she has been an advocate against the cricket field from the very beginning at the public hearing. Her and her husband Mr. Weitzel has been opposed to any type of sporting venue on that property. She stated as directed by the Board from last meeting her and her husband met with Mr. Vishwanathan on two different occasions. They talked about going down to one cricket field, but Mr. Vishwanathan stated they cannot go down to one cricket field because then the TCL would not pay for the maintenance or pay the taxes on the property. Ms. Smith stated they had offered to purchase two acres in front of their property to try and put up a buffer and in the first meeting Mr. Vishwanathan was not willing to sell. She stated at the second meeting Mr. Vishwanathan presented them with the fifth alternate plan and now he would be willing to sell a 70' by 200' piece of property, about 1/3<sup>rd</sup> of an acre. Ms. Smith stated that was not the amount of buffer she was looking for. After the meeting with Mr. Vishwanathan her and her husband talked and felt disturbed because all they would be agreeing to is having the cricket field in someone else's front yard. She stated again, how would each of the Board members feel about having this in their front yard, and how could she do that to someone else.

Ms. Smith stated she made up flyers with the latest proposal and distributed them to the neighbors on Hwy 64 and Hillside Dairy Rd. She spoke to other property owners and they did not know about the cricket field and some property owners did not know about the change in the site plan. Ms. Smith encouraged all of her neighbors to attend the Planning Board meeting whether they were for or against it. She stated this is not personal, she just does not want any sporting event on that property, it is not appropriate and it doesn't fit in the Comprehensive Plan. In closing Ms. Smith stated that Mr. Walker said if he were to put 29 homes on the property there would be more traffic. She stated that would have to be a major subdivision with the County's approval, with the stream on that property and the low lands 29 homes will not fit, at most four to five home would fit. Ms. Smith thanked the Planning Board and to please consider to not approve this item.

- There was a few comments from the public in attendance about not receiving any kind of notification about tonight's meeting or any notification about this item. Chair Lucier and Ms. Phelps informed the citizens how the notifications are posted and when for the public hearing.
- Mr. Mark Weitzel of 7134 US Hwy 64W spoke and had a few comments. He stated he is not in favor for this type of use for this property and that he and his wife did engage with Mr. Vishwanathan in two conversations. He stated they were looking for an alternative just in case this item was approved, but they never asked for this to be in their front yard. They did start to consider their other neighbors on Hillside Dairy Rd. and how they would feel about this. He spoke about reaching out to the neighbors and informing them of the new site plans and what is being considered. He stated opinions are allowed to change and hopes that his neighbors have a chance to speak and express their opinions about this

item. He stated that there is a great representation of the community here at the meeting tonight and hopes this will help the Board with making their decision. Mr. Weitzel thanked the Planning Board.

- Ms. Mary Raynor of 6940 US Hwy 64W spoke and had a few comments. She stated she had not spoken at any of the meetings prior to tonight because she wanted to take everything in. She stated that many of the people that live in direct proximity of the proposed cricket field are very passionate in how they feel about it. She said the Board asked for an alternate plan with one cricket field, she has never seen a variation with just one cricket field. She also stated one of her concerns is not everybody in the surrounding area was notified about this, only the property owners that directly connect to that piece of property. She stated with the increase of traffic and other concerns does impact the other neighbors in the area, not just adjoining property owners. Ms. Raynor is also concerned that if this is rezoned to commercial use that does open the door to other areas being rezoned into commercial use. She said this is a rural community and people move to this area because that is the type of setting they are looking for, not where there is a mini mart. Ms. Raynor thanked the Planning Board and to please deny this rezoning.
- Ms. Mary Ellen Spivey of 7136 US Hwy 64W spoke and had a few comments. She stated she had given Mr. Vishwanathan permission to use her easement as a right-of-way for his property. She has no objection to the cricket field coming to the area and feels it would be a wonderful thing and would encourage a community gathering everyone can engage in. She hopes the Planning Board will approve this item.
- Mr. Marty Rosenberg of 695 Hillside Dairy Rd. spoke and had a few comments. He first heard about this project on Friday and owns 72 acres on Hillside Dairy Rd. Twenty years ago he gave the land to the County for the road to be built and never envisioned that it would be used as a commercial road. He has lived and farmed this land for 44 years and his concern is about the traffic, he walks his dog and drives his tractor on that road, plus it is a rural area with cattle and farmland. Mr. Rosenberg stated the road is not meant to support the amount of traffic that potentially would come with cricket fields, it will change the nature and their life living out in the country. He also asked what happens if this fails and this piece of property is rezoned to commercial use, what other use could be on that property. Vice-Chair Siverson stated it would only be allowed to be used for cricket fields. Mr. Rosenberg thanked the Planning Board.
- Mr. Micah Stutzman of 97 Hillside Music Rd. spoke and had a few comments. He stated his concern is for the traffic on Hillside Music Rd. It is a paved road that turns into gravel and it looks like a cul-de-sac, but it really is a through road. The issues they see on that road is people come off of Hwy 64 and think Hillside Music Rd. is Hillside Dairy Rd. They will fly down the road and hit the gravel and keep going or get confused and stop at the cul-de-sac and turn around. The problem is, there are a lot of young kids that play in that cul-de-sac area. His concern is there will be increased traffic with a lot of people making the wrong turn going down Hillside Music Rd. Mr. Stutzman stated he did not know what the process is to put up signs or some kind of notice for traffic not to take Hillside Music Rd. They do have signs informing people that children are playing in the area. Mr. Stutzman asked the Planning Board to consider this when making their decision and thanked the Board.
- Mr. Vishwanathan the applicant spoke and had a few comments. He bought this property trying to bring in a small change using the property on Saturdays and Sundays. He was seeing a lot of resistance, so

he wanted to get as much input he could from the Planning Board and the neighbors. Inputs should not be a show stopper and he gathered all of the input and also followed the Boards instructions by reaching out to the neighbors to work it out. Mr. Vishwanathan stated it is true that they only reached out the adjoining neighbors who would have the most impact. Everything they have been trying to do is to make all the neighbors happy with five different alternate plans. He said they have offered to sell land, new access easement, and a 70' buffer at the southern part of the property. He stated they had the majority of the neighbors support by adjusting and modifying the plans to accommodate their needs. Mr. Vishwanathan said they are at the same situation, what is the best way to make this happen, wherever there is change there is resistance. Mr. Vishwanathan asked the Board to see beyond that and see the values in having cricket in this area. The game is growing and he would want all the neighbors to be part of it. In closing Mr. Vishwanathan stated they have done their best and it is up to the Planning Board to look at the pros and cons and make the best judgment. Mr. Vishwanathan thanked the Planning Board.

- Ms. Margie Brooks of 1475 Hillside Dairy Rd. spoke and had a few comments. She is one of the adjoining land owners and on one of the alternate plans it had three checkmarks with their approval. She has changed her mind and she had never signed anything either. She stated the plan was changed to put a practice field on Hillside Dairy Rd. and she also realized she needed to think about her neighbors and consider how they felt about this change from residential/agricultural to commercial business. The road is about a mile and half long and is a beautiful road with a lot of her neighbors walking on it. She asked the Board to think about the safety concerns. She also stated Mr. Vishwanathan mentioned change, they know change is coming, but it is the kind of change. Ms. Brooks stated her husband was born there 82 years ago and she has been there 60 plus years. She said it used to be just four dairy farms on that road, so things do change and she knows it will continue to change. She said that there is a lot of farm equipment used on Hillside Dairy Rd. and cattle crossing from one pasture to another. Ms. Brooks stated she has asked that the three checkmarks on the tracks of land she owns to be unchecked. The traffic will not be safe and the change in rezoning would not be appropriate for this area.

Chair Lucier asked Ms. Brooks what parcels she owns. Ms. Brooks stated the north and west side of the property.

- Mr. Randall Brooks of 877 Hillside Dairy Rd. spoke and had a few comments. He is the person that farms up and down Hillside Dairy Rd. and is the best person to let the Board know what goes on in that area on a day to day basis. He is a fourth generation farmer with 115 to 180 head of Black Angus cattle and he moves them a lot to all the different pastures keeping them grass feed and crossing Hillside Dairy Rd. quite a bit. Mr. Brooks showed the Planning Board on the GIS application all of the different locations his cattle graze and this shows how the agricultural operation is conducted on Hillside Dairy Rd. Mr. Brooks stated this is a pretty area and his main concern is the traffic and the risk losing the rural character of the area. Mr. Brooks thanked the Planning Board.
- Mr. Marty Raynor of 6940 US Hwy 64W spoke and had a few comments. He stated Ms. Spivey is willing to give access with another easement to the property which is being purchased by a TCL sponsor and he is looking at a bigger picture, two pieces of property with another easement off of Hwy 64. He stated the property has big embankments and it will need to be changed with the DOT involvement and his concern is the increase traffic off of Hwy 64. Mr. Raynor also stated they had a

green check mark for his property and he never agreed and paperwork is being sent in that people never agreed to and that is wrong.

- Ms. Brandi King of 2128 Hillside Dairy Rd. spoke and had a few comments. She was upset because she didn't know about this rezoning and in the notes from the County it states people on Hillside Dairy Rd. were notified and she was not. She stated the community is so nice and the cows eat her grass and can leave large holes in her yard. She asked if the cricket players would like large holes in the fields if the cows were to get loose. She also stated there are children riding their bikes on Hillside Dairy Rd. and sometime you will wait 30 to 40 minutes for the cattle to cross the road. She said people that are not from around here, what will their reaction be when it might take 30 minutes to get to their game.

Board Discussion followed and some items discussed were as follows:

- Ms. Hager asked if the Parks and Recreation Department had been contacted or involved and if not, why. She stated cricket is up and coming and believes Chatham County would be a good place for cricket with supporters, but her concern is this location is not designated for parks and recreation. She stated to encourage this activity and involvement it should be located in a place that the community can support it, not in an area that is designated agricultural and rural character that is in the Comprehensive Plan. Ms. Hager stated she is not against cricket in Chatham County, but she is not going to be able to vote to approve this rezoning based on the location. She stated that it seems like there could be a great relationship with the Parks and Recreation Department.

Mr. Vishwanathan stated every place that they go there will be resistance. Most of the tournaments that are being played are in Cary or Morrisville area and there is not large pieces of land in that area to purchase, so this is the only place to buy land this size. He stated they did reach out to Chatham County Parks and Recreation Department and they have a bigger plan and cricket is not on their priority list yet. Mr. Vishwanathan stated there are locations owned by the town in Morrisville, but there are privately owned land in Harnett County and in Orange County in the city of Chapel Hill. He stated the question is, if not here, where, everywhere is resistance.

- Mr. Walker asked to speak again to fill in a couple of holes of information. He stated the notification for this zoning case followed the regulations of the County and he apologized that there were other people interested in the rezoning that did not know about it because of their distance away from the property. He stated the Brooks property is right next door, but it is next door for 300 acres and that is why it didn't fan out to more individuals. Chair Lucier stated the Board understands the notification process and that the process was followed. Mr. Walker stated Ms. Brooks is correct that she did not sign the easement agreement, but her husband signed the agreement. He also stated the revised site plan was sent to the Planning Department two weeks ago and then he received a phone call from Ms. Brooks on Friday afternoon about the change in her support, which is why the green checkmarks are on her parcels. Mr. Walker stated the reason they went to use Hillside Dairy Rd. is because of the issues that raised using the easement off of Hwy 64, which they have the right to use. He stated they tried different means and now the neighbors on Hillside Drive Rd. are upset because of the traffic. He stated with the support from Ms. Spivey and her easement they can revert back to Hwy 64 and they are ready to make that a condition. Lastly, he stated this is regional business zoning with a recreational use and asked the Board to think of this as a park rather than a cricket field. Parks are always going to be around residential



developments to bring people in to play. He stated there will be no structures, no bleachers, no lights, and no parking lots, all the parking was going to be on the grass. It is a low impact use and the only reason this needs to be rezoned is because it is owned by a non-profit organization.

- Ms. Moose stated from the beginning this is in an agricultural area and the County has a Land Use Plan and she has not seen a component to depart from that. She stated cricket is a neat sport and wished them well to finding a suitable location within the County. Ms. Moose stated she came tonight prepared to make a case, but the neighbors did that for her.

Motion made by Ms. Moose to approve the consistency statement; second by Mr. Galin.

- Chair Lucier stated when the County zoned the major corridor Hwy 64 and the entire County several years later, they gave the neighbors an opportunity to weigh in when changes are proposed and how it would impact their day to day lives. He stated this was the driving force to why he supported the County zoning because it gave the citizens an opportunity to voice their concerns and input. Tonight the Board has heard the input from the neighbors and he will not be able to support the zoning request.
- Mr. Wilson stated he agrees with Ms. Hager about working with the Parks and Recreation Department and looking at their plan and where in the County is a suitable location for cricket. He also stated the County has no way to regulate spectators that want to come and watch.
- Ms. Weakley stated to the applicant that she appreciates the different alternatives that were presented. She was glad that they took the Planning Boards advice and spoke to the neighbors to try and resolve the issues. She stated community issues and sticking with the Land Use Plan, that was just adopted, is very important to her and she will have to agree with her Board members about this item.
- Mr. Galin stated it is a good suggestion to look at the Parks and Recreation plan and there is still a lot of land left in Chatham County. He stated he is going to vote against this rezoning.

Consistency Statement: It is the Planning Board recommendation that the rezoning of parcel 12236 is not consistent with Plan Chatham by being located within an agricultural land use designation which recommends protection of rural character and existing agricultural activities.

Motion passed unanimously 9-0

Motion made by Ms. Moose to not approve this rezoning item; second by Mr. Galin.

Motion passed unanimously 9-0

IX. NEW BUSINESS:

X. BOARD MEMBERS ITEMS:

1. Update from the Planning Board liaisons.

- Chair Lucier stated the Pittsboro Planning Board meeting had five items on their agenda.
  1. Music and dance recording studios requiring a Special Use Permit

2. Planning for town expansion and business can expand in any direction up to the sidewalk in their C4 areas.
  3. AT&T is to put up a cell tower with 5G capability with additional carriers. The town currently doesn't have a cell tower ordinance and Chair Lucier suggested that Pittsboro look at the County's cell tower ordinance.
  4. General Use retail stores going in across from the post office.
  5. 5000 sqft information building for Chatham Park.
- Vice-Chair Siverson stated she was not able to attend the Siler City Planning Board meeting, but she stated that they are working on their UDO. There was a public hearing held on April 15<sup>th</sup> for rezoning 262 acres from residential to heavy industrial.
  - Ms. Moose stated the Agriculture Advisory Board did not meet in April and they will be looking at applications for new members next week.
  - Ms. Weakley stated Chatham Conservation Partnership meeting held on April 18<sup>th</sup> "Becoming a Backyard Naturalist" was a success with 50 to 70 people in attendance. Mike Dunn was the primary speaker at the meeting and a field trip to Town Lake Park. The INaturalist application was being used and is a great resource for Chatham County and encourages people to get out in nature. The next meeting will be on July 18<sup>th</sup> and the topic is "Trees".

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. *Board of County Commissioner public hearing Items.* Mr. Sullivan informed the Board that there is a public hearing on May 20<sup>th</sup> for Sanders Automotive.
3. *UDO Contract Award Update.* Mr. Sullivan shared with the Board the team that will be helping with the UDO process and projected to begin by late summer.
4. *Conservation Viewer Introduction.* Mr. Sullivan gave a presentation created by Mr. Mullis on the new Conservation Viewer located on the Chatham County website.

XII. ADJOURNMENT:

There being no further business, the meeting adjourned at 9:02 p.m.

Signed: \_\_\_\_\_ / \_\_\_\_\_  
 George Lucier, Chair                      Date

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