



**Chatham County Planning Board
Minutes
June 2, 2020**

The Chatham County Planning Board met in regular session on the above date as a remote meeting due to the current health restrictions for the COVID-19 virus. Members present via GoTo Webinar meeting were as follows:

Present:

George Lucier, Chair
Clyde Frazier
Bill Arthur
Cecil Wilson
Gene Galin
Jon Spoon

Caroline Siverson, Vice-Chair
Jamie Hager
Emily Moose
Franklin Gomez Flores
Allison Weakley

Absent:

Planning Department:

Jason Sullivan, Planning Director, Kimberly Tyson, Subdivision Administrator, Angela Birchett, Zoning Administrator, Hunter Glenn, Planner I, Chance Mullis, Planner I, and Daniel Garrett, Clerk to the Planning Board.

- I. CALL TO ORDER:
Chair Lucier called the meeting to order at 6:30 p.m.
- II. VIRTUAL MEETING GUIDELINES:
Mr. Sullivan gave an overview of the virtual meeting guidelines provided by PowerPoint.
- III. DETERMINATION OF QUORUM:
Chair Lucier stated there is a quorum, (10 members present, Mr. Spoon was having technical issues and joined the meeting via telephone 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 March 3, 2020 minutes. There were minor corrections by Board members and the March 3, 2020 minutes were approved. Motion was made by Vice-Chair Siverson to approve; second by Mr. Arthur. Motion passed with a vote of 9-0, Ms. Weakley did not vote because she did not attend the February meeting.
- VI. PUBLIC INPUT SESSION:
No citizens raised their hand to speak.

VII. SUBDIVISION:

PUBLIC HEARING:

1. Request by Mark Ashness, P.E. on behalf of Shaddox Creek Developers, LLC for subdivision **Revised First Plat** review and approval of **The Conservancy at Jordan Lake**, consisting of 45 lots on 105 acres, located off Old US #1, SR-1011, parcel #66894, 5334, 5545, & 5557.

Ms. Tyson gave an overview of the staff notes and she stated the request is for revised First Plat review and recommendation of The Conservancy at Jordan Lake Subdivision, consisting of 45 lots on 105 acres, located off Old US 1, S.R. 1011. Per the Subdivision Regulations, Section 5.2C(4), a Public Hearing shall be held at the first Planning Board meeting to receive comments on the proposed subdivision. Item (b) states that following the Public Hearing, the Planning Board shall review the proposal, staff recommendation, and public comments and indicate their recommendation for approval, disapproval or approval subject to modifications. As stated above, the Planning Board has two meeting to act on the proposal. The Board of Commissioners approved the First Plat for The Conservancy at Jordan Lake Subdivision on February 17, 2020. The project was approved for 47 lots on 105 acres with public water. The developer determined that the cost to extend off-site water impacts the feasibility of the project. The length of the off-site water line to the project is a little over 7,150 linear feet. The road layout, location of stormwater ponds, and buffer crossing is unchanged. The change to the project is each lot is proposed to have a private well and the overall project is reduced by two lots.

The road is to be built as 20 foot wide travelway with a 60 foot wide public right-of-way and is to be state maintained. The applicant contacted Bev Wiggins, Chatham County Historical Association. Ms. Wiggins corresponded by email dated November 18, 2019 and stated if anything of interest is discovered to please contact her. Notification of the proposed development was provided to the Chatham County School System. Randy Drumheller, Chatham County Schools Director of Maintenance and Construction corresponded by email dated November 18, 2019. The developer submitted the General Environmental Documentation and a letter dated August 26, 2019 from North Carolina Department of Natural and Cultural Resources Natural Heritage Program to Chatham County Land & Water Resources Division for review. The letter states "A query of the NCNHP database, based on the project area mapped with your request, indicates that there are no records for rare species, important natural communities, natural areas, and/or conservation/managed areas within the proposed project boundary. Please note that although there may be no documentation of natural heritage elements within or near the project boundary, it does not imply or confirm their absence; the area may not have been surveyed. The results of this query should not be substituted for field surveys where suitable habitat exists" Rachael Thorn, Watershed Protection Director, reviewed and approved the information submitted.

Ms. Tyson stated a community meeting was held on September 24, 2019 at New Hill Community Center, 3101 New Hill Holleman Rd, New Hill. Approximately seven people attended the meeting. Items/issues discussed included improving road condition of an existing easement, availability of public water to adjoining properties, plans for the remaining land, availability for natural gas, high speed internet, prices of the proposed homes, personal rifle range north of the proposed property, and private airfield adjacent to the proposed property. The TRC met March 18, 2020 to review the revised First Plat submittal. The applicant/developer was not present. Discussion included will there be street lighting, sign location, if a utility easement is needed for future water lines, and fire hydrant flow test has been performed but the county had to make a repair on the distribution system pressure reducing valve (PRV) upstream and will be performing an additional test later. Staff had no concerns. A soils report and map was submitted to Thomas Boyce, Chatham County Environmental Health, LSS, REHS, Chatham County Environmental Health, for review. Mr. Boyce stated that the report and map were adequate for a First Plat review. Water will be a private well.

The road name Conservancy Parkway, Twisted Branch Lane, and Rustic Pine Lane has been approved by Chatham County Emergency Operations Office as acceptable for submittal to the Board of Commissioners for approval. A mail kiosk is proposed to be located near Lot 1. Kevin Murphrey of Environmental Services, Inc. (ESI), submitted the Riparian Buffer Review Application along with a riparian buffer map, dated June 2019, to Drew Blake, Senior Watershed Specialist for review. Mr. Blake and Mr. Murphrey completed an on-site riparian buffer review on August 12, 2019 to verify the consultant's findings. On October 8, 2019 Mr. Andy Williams of the US Army Corps of Engineers completed a site visit with ESI staff member. Streams SXC, SXF, and SXG were upgraded from ephemeral to intermittent streams. October 16, 2019 Mr. Blake issued a confirmation letter of his findings. The October 16, 2019 confirmation letter stated six (6) intermittent streams were found, seven (7) wetlands, and one (1) perennial stream. A 50-ft buffer will be required beginning at the flagged boundary and proceeding landward on all wetlands, a 50-ft buffer from top of bank landward on both sides of the feature for all intermittent streams and a 100-ft buffer from top of bank landward on both sides of the feature for the perennial stream. The Corp of Engineers Notification of Jurisdictional Determination was signed by Andrew Williamson February 11, 2020.

Ms. Tyson also stated there are three stormwater devices are proposed and will be placed by Lots 1, 35, 28 & 29 in the subdivision. As part of the stormwater permitting process additional information will be provided to the Watershed Protection Department. A Stormwater Permit and Sedimentation & Erosion Control Permit will be obtained from the Chatham County Watershed Protection Department prior to Construction Plan submittal. No land disturbing activity can commence on the property prior to obtaining Construction Plan approval. Site visits were scheduled for December 11, 2019 for Planning Department staff and various Board members to attend. Mark Ashness was present to walk the property with staff and Board members and discuss the project. Pictures of the site visit can be viewed on the Planning Department webpage at www.chathamnc.org/planning, Rezoning and Subdivision Cases, 2020.

Plan Chatham was adopted by the Board of Commissioners in November 2017 and is a comprehensive plan that provides strategic direction to address the most pressing needs in the county. These properties are located in an area of the county identified as Rural and Agriculture on the Future Land Use and Conservation Plan Map. The description for rural includes low density, single family homes on large lots, agriculture, home-based & small scale businesses, regional greenway trails, and conservation easements. The description for agriculture includes large-scale working farms, related processing facilities, supporting commercial and service uses, and single family homes. The proposed conventional subdivision meets the adopted riparian buffer and stormwater control standards of the county. The developer also contacted the NC Natural Heritage Program to review their database for any rare species, important natural communities, natural areas, or conservation/managed areas within the project boundary and none were identified in their records. It should be noted that Plan Chatham is not intended to be used as a regulatory tool, but is a policy document. When reviewing subdivision applications the boards can use the plan as a tool to identify future regulatory changes.

Ms. Tyson stated in closing, the Planning Department recommends granting approval of the road names Conservancy Parkway, Twisted Branch Lane and Rustic Pine Lane and granting approval of the revised subdivision First Plat for The Conservancy at Jordan Lake Subdivision with the following conditions: Approval of the First Plat shall be valid for a period of twelve (12) months following the date of approval by the Board of Commissioners and the Construction Plan approval shall be valid for a period of twenty-four (24) months from the date of approval by the Technical Review Committee or Board of Commissioners.

Public Input: No public input for the public hearing.

Board Discussion followed and some items discussed were as follows:

- Mr. Frazier stated there was not a new community meeting held and was wondering what kind of change would cause a new community meeting. Ms. Tyson stated if there was a significant change to

the original submittal, but because this was basically the same plan except reducing two lots and having well water instead of public water, staff determined it did not require another community meeting. However, if there was a major change to the plan staff would request another community meeting to be held. Mr. Sullivan stated Ms. Tyson is correct and there was also notification letters sent to each adjacent property owner about the public hearing tonight.

- Mr. Ashness thanked the Planning Board for accommodating this meeting so the project can move forward. He stated they have dropped two lots that were located in the center of the project and after the original submittal that was unanimously approved by the Planning Board, they received additional information from the County water department that they had some water pressure issues that they felt would not be resolved in the near term. Mr. Ashness stated they were well outside of the limits requiring to connect to potable water with 47 lots and the additional cost upgrades made it prohibitive. Everything on this plan is the same except the reduction of two lots and the average lot size is 1.93 acres, plus the open space.
- Chair Lucier asked if the open space were the ponds and roads. Mr. Ashness stated the open space is three pond locations and a community mail kiosk area. Chair Lucier noted the lot lines in some of the lots go down to the stream, but not impacting the buffers. Mr. Ashness stated the Chair is correct and where the home sites are located, you can see they are well away from the buffer locations and the U.S. Army Corps are satisfied. Chair Lucier also mentioned the stream crossing. Mr. Ashness stated there is one intermittent stream crossing at the highest position.
- Chair Lucier asked about the wells in that area, plus the water quality and quantity. Mr. Ashness stated there is a positive yield for wells in this area and they are drilled to 400' to 500' deep with less than a gallon per minute provides adequate storage. He stated the client owns property immediately adjacent to this project with two shallower wells on the property and they have not had any problems. They have not found any issues from a standpoint of yields to support these types of homes. Chair Lucier mentioned some issues other wells in the County were having because of the coal ash and wanted to know if there should be a concern for these wells. Mr. Ashness stated it should not be an issue because they are at a higher elevation from the wells mentioned.

Mr. Arthur had some concern with the wells and the impact of the water table. Chair Lucier stated there will only be 47 wells and there shouldn't be an impact to the water table. Mr. Ashness stated there is also on-site septic and typically these homes will use 100 to 125 gallons per day of ground water, but that ground water is being reintroduced back into the soil structure on the site. It is not a circumstance where the water is being pulled and then letting that water go into a different direction, the water is going back into the ground at a low loading rate.

Vice-Chair Siverson stated the client owns a lot of adjoining acreage and if that land is developed, will public water be brought in then, because 45 wells may be reasonable, but not sure if hundreds of wells will be sustainable. This area is designated as an agricultural area in the Land Use Plan and it is a priority to conserve ground water in those areas. Vice-Chair Siverson asked what would be the plan for water for future development. Mr. Ashness stated they have not moved along far enough to see what would happen, but he agrees with the concern of future development with 50 or 60 more lots would probably be okay. However, 300 lots on wells would probably not be sustainable, so that is something that will definitely be discussed and resolved with any project that would come in after this.

Ms. Moose stated it is a difficult question to answer that 45 lots is okay, but 300 lots is not. Plus, the Agriculture Advisory Board has requested that we not approve new subdivisions that are on well water and this makes her uncomfortable supporting this project especially in an agricultural area. She also

feels it is difficult to ensure future development won't compound this problem. Ms. Moose stated she voted in favor of this project while it was on public water, she would have a difficult time supporting it now.

- Chair Lucier asked what is the general land use in that area and is aware of a lot of industrial activity. Mr. Ashness stated this property was zoning industrial at one time and was rezoned last year. The Land Use Plan calls for this area to be conservation which includes a residential component. The lots are averaging 2 acres in size and would be considered not a high density type of project, the soils are limiting this. Most of the industrial activity is an operation on the other side of Old US 1 heading down towards Moncure. Most of the land around the project is timber management and the property to the north has an airstrip and a firing range. Mr. Ashness stated they have not had any issues with the neighbors in terms of the size and type of development proposed and he feels comfortable as a professional and engineering standpoint with the well potential for this site. There has been no evidence in this area of the County for failing wells, but public water will probably be extended to this area just by virtue of what's happening with the Moncure Megasite. The reality is, there will be growth in Moncure whether it is job creation or other commercial activity and likely residential. If 6000 jobs are added there is going to be a need for services for those 6000 jobs and this development is just a precursor to what is going to be happening.
- Chair Lucier asked if potential buyers will be informed of the airstrip and firing range. Mr. Ashness stated information will be made available to potential buyers. Chair Lucier asked if there will be any drilling for test wells to check the quality of the water. Mr. Ashness stated they have looked at the quality of the water on the existing wells near the entrance and they were adequate. Chair Lucier asked if they performed a toxic screen. Mr. Ashness stated he is not aware of that, but he knows they checked it for potable quality and the level of detail mentioned may not have occurred.
- Mr. Sullivan read an e-mail provided by Mr. Spoon: Do they know that there is adequate well capacity for the units they plan to build? Do they know of any history of wells running dry in the area? Mr. Ashness stated they are not aware of any wells running dry in this area and his experience in this region, deeper wells can be accommodating because here is not a lot of water demand being created in these types of lots. With wells 400' to 500' deep there is more than a couple days storage in just the column of the well. Chair Lucier stated he believes it is a gallon and a half per foot.
- Ms. Hager asked about the septic on lot 31 and if it is crossing the stream. Mr. Ashness stated the pipe will follow the fill shoulder along the road.
- Ms. Weakley stated she was looking at the environmental documentation that was submitted and noticed the letter from the NC Natural Heritage Program (NCNHP) states there is an historic record for a federally endangered bird within a mile of the project. The NCNHP cover letter says if a federal listed species is found within the project area or is indicated within a 1 mile radius of the project area the Heritage Program recommends contacting the U.S. Fish and Wildlife Service (USFWS) for guidance and she was wondering if that had been done. Ms. Weakley stated the general environmental documentation submittal form that the County requires, question 11 states, elaborate if you answer "yes" to Heritage Program records within a mile. The only response is, "given the low impact of development plan for this project with shoulder and ditch section roads and low impervious we say no adverse impact." Ms. Weakley wonders who was qualified to say that has no impact on a federally endangered species, was it a wildlife biologist, an engineer, or was it the USFWS.

Mr. Ashness stated they have an environmental consultant that contacted both the NCNHP and NC State Historic Preservation Office agencies and based on the proximity and the fact there is no mass

grading of the site or clearing the entire site and the impervious coverage being what it is, in their opinion there was not an issue with the habitat impact as a result. Ms. Weakley stated neither of those agencies regulate federally listed species and would need documentation from the USFWS, she recommended that agency be contacted. Mr. Ashness stated the general environmental document basically just asks, is there anything within 1 mile of the project and it was answered as yes. There is a Shaddox Creek swamp natural area to the northwest and the project site does not drain to it and is not impacted. The red-cockaded woodpecker was last observed in 1984 and the Regal darter last observed pre-2004 and that observation was a low accuracy observation. That was the information provided by the environment consultant, so they did respond to those questions in the general environmental documentation.

Ms. Weakley stated that info comes straight out of the Heritage Program data that was issued for the project, but the cover letter says, "If you have federally listed species within a mile of the location, you should contact the USFWS for guidance." Ms. Weakley's question is, has the USFWS been contacted for guidance. Mr. Ashness stated he can't answer that question tonight, he would need to contact the environmental consultant.

Chair Lucier asked the Planning Board members their thoughts on if they should vote on the item tonight or wait until Mr. Ashness is able to get an answer for some of the concerns. Ms. Weakley stated she would like to see the USFWS guidance. Mr. Ashness stated they went through the subdivision regulation process and does not think that is a requirement. This is less than 50 lot project that is certainly not impactful and was unanimously passed in January, the only changes are two lots were removed and private wells. Ms. Weakley stated number 11 of the general environmental document says if you mark "yes" to any of the above questions about Natural Heritage records and federally listed species, you should discuss project impact. The explanation given doesn't address the recommendation by the Heritage Program to contact USFWS for guidance. It is due diligence to check with the regulatory agency for federally listed species. She stated it is an old record and Heritage Project records are not followed up on a regular basis because of lack of resources, but it is good due diligence to follow up.

Mr. Ashness stated they are going to stand by what they provided, the red-cockaded woodpecker was last observed in 1984 and the Regal darter last observed pre-2004 with low accuracy observation. Mr. Sullivan suggested a condition that they investigate and gather the information prior to the construction plan and if everything is satisfactory admin review will proceed forward, but if there are any red flags and staff is uncomfortable with anything the construction plan review can go to the Planning Board and Commissioner review. That is an option if Mr. Ashness and the Planning Board is up for that condition. Chair Lucier stated that is an option and thanked Mr. Sullivan for the suggestion.

Mr. Ashness stated he is sure their environmental consultant would be happy to discuss this with the USFWS based on the intensity of this project and will be agreeable to the condition Mr. Sullivan has suggested. The subdivision ordinance has specific criteria and the more information the Board can obtain will help you with a recommendation, but we are in full compliance with the subdivision requirements as we have submitted the project today. Ms. Weakley stated it is due diligence to follow through with USFWS.

- Mr. Arthur asked if Ms. Weakley had any input or concerns with the wells on this project. Ms. Weakley stated she noticed on the site plan there are wells from lots 3, 4, 5, and 6 clustered around the headwaters of a wetland. Mr. Ashness stated County Environmental Health has specific setbacks for a lot of things to include streams and wetlands, in this instance it is 50' from surface water and the wells are 100'. The setback from septic to wells are 100' as you can see in grey on the plat, this is in full

compliance with the regulations. Ms. Weakley stated her observation was more of a concern to the impact of the wetland with ground water not being available to recharge the wetland and the stream. Mr. Ashness stated the only reason this wetland exists is because there was an old timber road. Chair Lucier stated he walked the property on the site visit and would agree the wetland is just a consequence of putting in the timber road.

- Vice-Chair Siverson stated one of the adjacent property owners asked during the community meeting if there would be water utilities brought to them. Were they interested in connectivity as well or was there concern for it. Mr. Ashness stated they were interested in general utilities and also asked about fiber optics and natural gas. It was more just curiosity and no concerns. Vice-Chair Siverson wanted to make sure they were not having issues with their wells and wanted public water. Mr. Ashness stated they did not mention that at all.
- Mr. Ashness stated he was able to reach the client and has asked the Planning Board to respectfully vote on this item tonight based on the merits submitted and open to the condition Mr. Sullivan has suggested.
- Ms. Weakley asked for clarification of the condition suggested by Mr. Sullivan. Mr. Sullivan stated they will contact the USFWS agency and receive their guidance. If there is anything specific to this property that raises any concern, staff has the authorization to remove it from administrative review and have the construction plan come before the Planning Board and BOC. If the guidance doesn't show any concerns then the construction plan will be reviewed administratively. Ms. Weakley stated she would feel better knowing what that guidance says before voting on this item.

Motion to approve this item made by Mr. Wilson as suggested by staff with the condition that guidance documentation shall be provided from U.S. Fish and Wildlife Service of the rare species with the submittal of the Construction Plans and planning staff will determine if the construction plan will be reviewed administratively or by the Planning Board and Board of Commissioners. Second by Vice-Chair Siverson.

- Ms. Moose stated she cannot recommend approval of this item because of the lack of information on well capacity and the standing resolution from the Agriculture Advisory Board, along with the importance of ensuring we don't take actions that make agriculture harder in an agricultural area as designated in the Land Use Plan.

Chair Lucier completed a roll call vote and the motion passed 6-5, opposed by Ms. Weakley, Mr. Arthur, Ms. Hager, Ms. Moose, and Mr. Gomez Flores.

2. A request by Tanya Matzen, Vice President, on behalf of NNP Briar Chapel, LLC for subdivision **Final Plat** review and approval of **Briar Chapel, Phase 12B**, consisting of 60 lots on 27.5 acres, located off Great Ridge Parkway, SR-1692, Baldwin Township, parcels # 80418 and 87088.

Ms. Tyson gave an overview of the staff notes and she stated the request is for Final Plat approval of Briar Chapel, Phase 12B consisting of 60 lots on 27.5 acres with a financial guarantee for the completion of required infrastructure. Phase 12B received preliminary plat review and approval by the Board of County Commissioners on March 18, 2019 for 134 lots. The submittal includes a request for a financial guarantee for completion of the required infrastructure. Under the pre-2008 Subdivision Regulations, 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 March 13, 2020, has been provided by Chris

Seamster, PLA, McKim & Creed, Inc. stating that the required infrastructure is 57% 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. Per the approved preliminary plat, roadways are proposed to be public and state maintained roads. Phase 12B is located off Great Ridge Parkway. There's one private alleyway (Twin Leaf Street), one public street (Copper Leaf Avenue) and 7 on-street parking spaces in Phase 12B.

Phase 12B has two common areas, Common Area #94 and #95. As shown on the plat, Common Area #94 has 1.209 acres and Common Area #95 has 15.048 acres. Common Area #94 has a common boundary with Richard and Margaret Wilson and Common Area #95 has a common boundary with Donald Medlin, Manns Chapel Development, LLC, David Leeper, and Chapel in the Pines Presbyterian Church Inc. There is a 100' perimeter buffer provided along Richard and Margaret Wilson (parcel 62256), Donald Medlin (parcel 62269), Manns Chapel Development, LLC (parcel 2533), David Leeper (parcel 2623), and Chapel in the Pines Presbyterian Church Inc. (parcel 87596).

Ms. Tyson stated riparian buffer widths of 50 feet per side (100' total) measured from top of bank landward with a 10 feet no build zone both have been shown on the plat. There is one stormwater feature in Phase 12 B, but a total of two in the phase. The 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 conditions were added to the preliminary plat approval for this phase – 1. "The final plat shall include the approximate location of the BMP using top of bank of existing feature (no pipes or risers); the BMP maintenance easement be labeled and shown as 'private' with a minimum of 10 feet clearance; and the location of the access to the stormwater easement from the public right-of-way." 2. "A note shall be placed on the final plat stating the maintenance responsibility of the stormwater features." The BMP, access to the BMP and a note stating the maintenance responsibility of the stormwater feature is shown on final plat.

The Technical Review Committee met on March 18, 2020 to review the request. Staff discussion included what is in the common areas, the utilities department approved the construction plans, initial water line construction is completed, and need to pass a bac-T test and a walk-thru w/ punch list must be completed. There were no other staff concerns. 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 12B will have 60 single family detached homes on 27.5 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 12B has public roadways connecting to the balance of Briar Chapel.

Ms. Tyson stated in closing, the Planning Department and Planning Board unanimously recommends granting final plat approval of "Final Subdivision, Easement, and Right-of-Way Dedication Plat of Briar Chapel Development Phase 12B 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.

Board Discussion followed and some items discussed were as follows:

- Ms. Weakley asked what is included in the common areas. Ms. Tyson stated the common areas are going to remain as a grass area to include the stream buffer.

- Mr. Sullivan stated he has a question e-mailed from Mr. Spoon. How close will the houses get to Half Dollar Road? Will there be some buffer? Mr. Seamster stated the homes in the cul-de-sac on Copper Leaf will be the closest homes to Half Dollar Rd and that will be about 85 to 90 feet away. Mr. Robinson mentioned that portion of Half Dollar Rd is on Briar Chapel property and this final plat is the instrument to dedicate this a DOT Right-of Way.
- Ms. Weakley stated the stream buffers are in the common area, will there be a note on the plat as to what can and cannot be done in the riparian buffers, Mr. Seamster stated there is a 10 foot no build area and there will be an end to the graded area then into the vegetation, but he is not sure if there is documentation stating what can and cannot be done in the buffers. Mr. Robinson stated the common area that is not in the riparian buffer is governed by the declaration of restrictive covenants by the neighborhood and the riparian buffer area is governed by ordinance. Ms. Weakley stated because this is in a common area she is not too concerned about it, but if it were on a lot she would have more concern.

Motion made by Vice-Chair Siverson to approve this item, second by Ms. Hager. Chair Lucier did a roll call for a vote and this item passed 11-0 unanimously.

VIII. ZONING:

1. A request by the Chatham County Board of Commissioners to consider amendments to the Chatham County Zoning Ordinance; specifically, Section 7.2 Definitions, and Section 10.1-10.12 Schedule of District Regulations.

Mr. Sullivan gave an overview of the staff notes and he stated at the February 4th Planning Board meeting the board had several questions regarding the building/structure height limit of 60 feet. Instead of approving the language suggested by planning staff, the planning board asked that planning staff research the topic. Several board members were concerned about the maximum height limit of a structures was sixty (60) feet. Planning staff informed the planning board that they would research the policies of surrounding jurisdictions. The sections that will be amended are 7.2 Definitions and 10.1-10.12 Schedule of District Regulations. Below is a list of the Structure definitions from surrounding jurisdictions:

Durham City/County: Structure- A walled and roofed building that is principally above ground; a manufactured home; vertical projections meeting the definition of antenna-supporting or wireless support structures; or when used in reference to Sec. 8.4, Floodplain and Flood Damage Protection Standards, a gas or liquid storage tank that is principally above ground. Moore County: Structure- Anything constructed or erected, including but not limited to buildings, manufactured homes, or a gas, liquid, or liquefied gas storage tank that is principally above ground, which requires location on the land or attachment to something having permanent location on the land. Wake County: Structure- means any object anchored to the ground, constructed or installed by humankind, including signs, buildings, parking lots, garages, carports, flagpoles, stoops and utility buildings (Note: All buildings are structures, but not all structures are buildings). Lee, Randolph, and Harnett counties do not include individual definitions for structure in their development ordinances, but instead include structure references within the definition for building. Based on planning staff research the average building height limit in residential areas in surrounding jurisdictions is 35 feet. In non-residential zoning districts when there is a height limit, it is usually 60 feet. Additionally, it should be noted that in Chatham County there are a significant amount of permitted structures, mainly private residences, which exceed a 35 feet maximum height.

Mr. Sullivan also stated based on the analysis of surrounding jurisdictions districts regulations and difficulty in trying to distinguish between “buildings” and “structures”, and trying to separate the two types in each zoning district, planning staff recommends no change in the definition or height limits. Planning staff recommends adoption of the wording that was the subject of the public hearing.

Board Discussion followed and some items discussed were as follows:

- Chair Lucier thanked the planning staff for following through on the Boards request to gather more information and agrees with the staff recommendation.
- Ms. Weakley stated she was looking at her February meeting notes and the Board discussed pulling out flagpoles and monuments from other structures. She is concerned that a 60' flagpole could be put in a residential area.
- Mr. Frazier stated the proposed sections to be amended is sections 10.1 – 10.8 not including 10.12, is this an oversight? Mr. Sullivan stated that was an oversight and should include 10.1B – 10.8 and 10.12F. Mr. Wilson asked how the ordinance would read. Mr. Sullivan stated, "In no circumstances shall a building/structure have a height greater than sixty (60) feet."
- Mr. Sullivan shared an e-mail from Jon Spoon to the Planning Board. I think that there should be a couple classifications of structure: working structures and symbolic structures. Working structures are anything with a practical purpose. Symbolic structures only serve to convey a message. This would include flag poles and monuments. I think the height limit for working structures should be 60' and symbolic structures 25'. There could be an exception for government buildings because they can't fly anything controversial. I believe the height limit should be lower for symbolic structures because they have the power to drive perceptions of an area. At 60', a neighbor can represent the character of a neighborhood. The rule must not be preferential and it shouldn't. No one should have the right to unilaterally make a statement for everyone living in view of a 60 ft structure.
- Mr. Wilson asked what is meant by a working structures. Mr. Spoon stated working structure are silos, gas tanks, zip lines, etc.
- Ms. Hager asked if there is a reason all building are structures, but not all structures are buildings. It seems like we could have two separate definitions and that would allow us to have separate requirements. Mr. Sullivan stated staff could leave the definition of structure as it is worded and pull out flagpoles and monuments. Chair Lucier asked what the Board thought about that.
- Ms. Weakley and Ms. Hager are in support of separating flagpoles and monuments from other structure definition. Mr. Sullivan stated staff can take a look at separating flagpoles and monuments from the structure definition and have them regulated differently if the Board is comfortable with that and continue next month.
- Mr. Wilson asked if neighboring jurisdictions have had to address this and if so, what did they do. Mr. Sullivan stated staff took a broader look at other jurisdictions for structure heights, but now they will focus on flagpoles.
- Ms. Weakley stated from the planning staff notes, "Based on planning staff research the average building height limit in residential areas in surrounding jurisdictions is 35 feet." She is curious why

surrounding jurisdictions have the 35' limit, but staff is saying there is a number of homes in Chatham County that exceed this height already. Mr. Sullivan stated yes, there are a lot of tall homes in Chatham County. He also mentioned other jurisdictions may have restrictions on height because of fire department restrictions to fight fires. Ms. Moose asked what would be the impact on the homes over 35' tall. Mr. Sullivan stated they would become non-conforming. Ms. Moose asked by how far these home exceed the 35'. Ms. Birchett stated the tallest home is 55' tall in the Hills of Rosemont and last year Carolina Meadows was approved to go up to 75'.

Mr. Sullivan stated another thing to keep in mind is if we reduce the height, built upon area will be impacted. If we are restricting the height of buildings there will be a bigger footprint on the built upon area. Vice-Chair Siverson stated she is not concerned about height of buildings, but flagpoles 60' is too tall and she is in favor of taking another look at this item.

There was some Board discussion to table this item. Chair Lucier stated the Planning Board will table this item until the July meeting to include flagpoles and monuments.

IX. NEW BUSINESS:

1. Remote Meeting Policy

Mr. Glenn gave an overview of the staff notes and he stated during the April 20, 2020 Board of Commissioners meeting the board adopted remote meeting guidelines in order to continue board meetings during the pandemic. The board also approved the use of these standards for advisory boards, with a requirement that each board update their respective rules of procedure. The attached Rules of Procedure have been modified by planning staff to incorporate the remote meeting standards adopted by the Board of Commissioners. The Commissioners intend for remote meetings to only be used during declared emergencies and the wording reflects their intent. The Planning Board will need to adopt amended rules during this meeting in order to continue to hold remote meetings during the pandemic. Please note that the Rules of Procedure require a 2/3rds majority to approve an amendment. Discuss the amendments and adopt the updated Planning Board Rules of Procedure.

Board Discussion followed and some items discussed were as follows:

- Chair Lucier stated this needs a vote to pass by the Planning Board members and if it doesn't pass then the Board can't meet electronically. Mr. Sullivan stated that is correct and there needs to be a 2/3rd vote.
- Ms. Weakley stated section VII. C-2. "The location of where a member of the public, member of the media, or others, may listen to the Electronic Meeting in accordance with § 143-318.13 of the North Carolina General Statutes." Her concern is this just gives the public the opportunity to listen and not participate. Chair Lucier asked if there is any problem adding the word participate. Mr. Sullivan stated this electronic meetings section needs to be approved specifically as it is written and believes it is the way the statute is written. Staff is making every effort possible for public to participate in the meetings, but there are some limitations to the software and technology being used. Mr. Sullivan also stated electronic meetings can't be used any other time than a declared emergency situation. Once we are over this pandemic and the governor orders we will not be able to use electronic meetings, but holding in person meetings. Chair Lucier asked Mr. Sullivan if he thinks the July meeting will be virtual. Mr. Sullivan stated unless something dramatically changes, July meeting will be virtual and maybe more.

- Mr. Frazier stated the statute does not state anything about participation for public, but only provide a place for them to listen. Mr. Sullivan stated he spoke with the Clerk of the Board of Commissions about having a physical place for the meeting and it was understood that the GoTo Webinar platform is the place for the meeting and a physical location is not required. Mr. Glenn also added that there was some guidance from the School of Government and after the public hearing the public has 24 hours to submit comments. Ms. Moose asked about the decision being made before the 24 hours after the meeting. Mr. Sullivan stated the Board of Commissioners make the final decision and if staff receives any information from the public it will be included in the review for the BOC. The Quasi-Judicial public hearings are the larger issue across the state because once the hearing is closed, no more comments are permitted.
- Ms. Weakley stated the Planning Board decisions can be led by public input and it is very important to hear public comments before a decision especially on a controversial item. Chair Lucier agrees the public input has always been an important part of deliberations to the Board and always should be. Ms. Hager stated she has noticed with other webinars during this pandemic that participation has actually increased because there is a lot more flexibility. Mr. Sullivan agrees, staff is receiving positive feedback as well with other meetings because people don't have to drive to the meetings and reduces travel time.
- Vice-Chair Siverson stated until Chatham County has equal broadband access throughout the county her concern is people would be shut out of the public process because of poor internet service. Ms. Hager stated maybe there is a way spaces could be provided with good internet access. Mr. Sullivan stated he has contacted the County's MIS department for a list of County buildings with good WIFI signal outside the building. There has not been a list of buildings yet and understands internet is a big issue. There has also been concern by the public because they prefer to be in the room with the decision makers. Vice-Chair Siverson stated there is something about being in the same room and would miss that interaction.
- Mr. Wilson asked if there was other software programs that could be considered for better participation. Mr. Sullivan stated the Clerk to the Board of Commissioners has spent countless hours finding the best program for the services and security required for these virtual meetings. There was some Board discussion about different software programs that have been used by different Board members and the functionality.
- Ms. Moose asked if someone did want to be in person, would it be feasible to have a room open and set up for them. Mr. Sullivan stated the decision was made internally for the advisory boards, the County just doesn't have the capacity to set that up right now. It would involve more departments and a lot of staff resources. However, the BOC meetings will have an in person setting option.
- Chair Lucier stated the Board will need to pass this item so we can continue virtual meetings, but continue the discussion about how to make the virtual meetings as good and accessible as can be. Ms. Moose asked if a participation requirement could be added elsewhere in the Rules and Procedures. Mr. Sullivan stated his concern is if we add it and then there is one person that can't participate because of numerous reasons, internet went down or not available or their phone breaks, they can come back and say your rules said I had the option to participate and the only way I could do that was in person and the County didn't offer than option, that would be a problem. The County and staff is trying to be as open and transparent as we can be and we are flexible to make it better.
- Mr. Galin stated can we assume that the Commissioners had this vetted by our Chatham County attorney. The biggest problem isn't necessarily the video conference software, it's more of high speed internet connectivity. If there is a person limit per meeting, maybe we can use the partitions at the new Agriculture Center and split the Board members and staff into the different partitioned rooms. Mr.

Sullivan stated the County Attorney was involved in the decision and evaluation for the GoTo Webinar software. He also stated the partitions for the Board members and staff will probably be used during the BOC meeting in June.

- Ms. Moose stated the staff has done a great job adjusting and accommodating, but she still has a concern approving items without public input. Mr. Sullivan stated one thing to keep in mind about the process is for a rezoning case if it is conditional, there is a required community meeting and mailed notices for public hearing and major subdivisions. Even though it is not perfect, people do have advanced notice to submit comments.
- Chair Lucier stated this has been a good discussion. It is not a good idea to change the language that the Commissioners have approved, but as part of our other rules and procedures do we have language in there for public participation. Ms. Moose pointed out section V. K “Notice of the meeting shall be given as required by the North Carolina open meeting law. All meetings of the Planning Board are open to the public subject to the North Carolina open meetings law. The public is encouraged to attend and participate in meetings of the Planning Board.” There was some Board discussion if it was necessary to add any more language about participation at this time. Chair Lucier stated the Board should pass the current changes for the electronic meetings and look at the rules and procedures later. Ms. Moose stated she is still uncomfortable to approve without participation and is willing to write up the concerns to pass onto the BOC.
- Ms. Laura Bradley raised her hand to speak and stated she attended the May BOC meeting and did not realize that the advisory board meetings would not have the ability for in person participation as well as virtual. She feels it is very important to be able to look at people face to face and tell their story. Most of us are very concerned about the Williams Corner project and the fact that there is a pandemic she understands the issues the County is having with resources, but also feels that the public shouldn't be penalized in their ability to represent opinions in a way that isn't restricting. Ms. Bradley mentioned the two community meetings held for Williams Corner, one was two days before Christmas and the other, the report was filed the day after the community meeting so you can guess how much community input they have really had at this point.

Chair Lucier stated nobody here disagrees with Ms. Bradley about the face to face meeting being very important. All the Planning Board members take public input very seriously and that has impacted the recommendation to the BOC. The Planning Board is just struggling on how to move forward during this pandemic and still have the needed and wanted public input. Ms. Bradley appreciates that and asked if the Board could inform the BOC that some people in the public would like the opportunity to have face to face meetings and should have that opportunity.

- Commissioner Hales stated Ms. Bradley did speak at the last BOC meeting and that is also why commissioners pushed the public hearing for Williams Corner to August. Hopefully we will have a different situation in August for larger groups and this is what the commissioners have been working on. It is a large liability to not have public participation in person and that is recognized. We are working under the same guidelines in terms of the amount of people we are allowed in each room. As Mr. Sullivan had mentioned we are working that out for the June 15th BOC meeting where there will be at least two locations for people. Commissioner Hales also mentioned the language in the rules and procedures is directly out of the legislation so that is what we are limited to for conducting electronic meetings with State restraints. Chatham County is doing the best we can with the software with high security because these are official meetings with official votes and results with official minutes. Commissioner Hales stated the public input is vital and we know people what to be in person and we want to get back to that as soon as possible.

- Mr. Arthur stated the issue is technology and it is not going to get fixed tonight. We need to keep working on it and make it as best as we can.

Motion made by Mr. Arthur to approve the changes in the rules and procedures, second by Vice-Chair Siverson.

Chair Lucier asked that the Board send a report to the Commissioners and share their concerns for public input.

Chair Lucier completed a roll call vote. Motion passed 10-1, opposed by Ms. Moose.

Chair Lucier asked Ms. Moose if she would draft a report expressing the concerns of the Planning Board regarding the adequacy of electronic meeting policy for receiving public input. The Planning Board would then review the report and present it to the Board of Commissioners.

X. BOARD MEMBERS ITEMS:

1. Update from the Planning Board liaisons.

- Chair Lucier stated he has not attended a Pittsboro Planning Board meeting since it has gone virtual.
- Vice-Chair Siverson stated there has not been a Siler City Planning Board meeting.
- Ms. Moose stated nothing major to report for the Agriculture Advisory Board meeting other than some leadership changes.
- Ms. Weakley stated the Chatham Conservation Partnership had a big Earth Day celebration meeting scheduled for April, but that did not happen due to the COVID-19 restrictions. There is a July and October agenda topics, but we will have to see how things play out if those meetings will happen.

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. *Public Hearing items for the June 15, 2020 Board of Commissioners meeting.*

XII. ADJOURNMENT:

There being no further business, the meeting adjourned at 9:05 p.m.

Signed: _____ / _____
George Lucier, Chair Date

Attest: _____ / _____
Daniel Garrett, Clerk to the Board Date