



**Chatham County Planning Board
Minutes
August 4, 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
Gene Galin
Jon Spoon
Caroline Siverson, Vice-Chair
Jamie Hager
Emily Moose
Franklin Gomez Flores
Allison Weakley

Absent:

Cecil Wilson

Planning Department:

Jason Sullivan, Planning Director, Kimberly Tyson, Subdivision 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. Wilson was absent.

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 July 7, 2020 minutes. There were minor corrections by Board members and the July 7, 2020 minutes were approved. Motion was made by Vice-Chair Siverson to approve; second by Ms. Moose. Motion passed with a vote of 10-0, unanimously.

VI. PUBLIC INPUT SESSION:

- Ms. Liz Rolison addressed the Planning Board: Thank you for giving me a chance to speak with you this evening. My name is Liz Rolison. I've been a resident of Briar Chapel since 2014. I'm here tonight to ask you to recommend that Newland's Final Plat for Briar Chapel, Phase 13 Section 3, be placed on hold until the Briar Chapel WWTP and infrastructure can be upgraded and stabilized. Briar Chapel is experiencing increasingly frequent problems with their wastewater treatment system and infrastructure. Since 2017, ONSWC has received 14 Notices of Violation from NC DEQ. In that same time period, there have been 26 sewage spills or overflows, resulting in a total of 68,540 gallons of raw sewage most of which drained into Pokeberry Creek, a tributary of Lake Jordan. Most of these spills have been caused by pipe breaks. Newland used PVC pipe when they installed the force mains in Briar Chapel. The WWTP is located at one of the highest points in the neighborhood. When the pumps turn on, they

generate pressure to push the sewage up to the plant. This pressure has been causing the pipes to fail on a reoccurring and more frequent basis. In June, ONSWC announced they would “fix” this problem by replacing a 1000’ section of the force main. The day they completed the install, they had 3 sewage spills – totaling 7,100 gallons. In the most recent sewage spill, which occurred on July 26th – it is estimated that over 25,000 gallons of raw sewage was spilled into Pokeberry Creek and the surrounding area. It took ONSWC over 4 hours to bring in the necessary equipment to begin work on the pipe break, during that time sewage continued to gush from the ground. My colleague, Donna Sukkar, sent videos on this spill to Mr. Garrett and hopefully you’ve had a chance to look at the magnitude and impact of this spill. The replaced section of main force didn’t “fix” the problem, it just moved it to another section of the pipeline. Until this infrastructure is upgraded, adding additional volume to our system is likely to only increase the problems we have been experiencing. Finally, the BC WWTP and irrigation system are reaching capacity. The Briar Chapel wastewater treatment system is currently running at 85-92% of the plant’s capacity (250,000gpd). In the last two month’s volume averaged 216,532gpd. The spray irrigation system for discharge of the reclaimed water is the current constraint at 216,718gpd. As these volumes have grown, these problems have become worse. We ask that you put further development in Briar Chapel on hold until Newland and Integra Water/ONSWC can come together to make the necessary repairs/upgrades to the Briar Chapel wastewater infrastructure. Ms. Rolison thanked the Planning Board.

- Chair Lucier stated the Planning Board did see the video Ms. Rolison was referring to and asked if that was a bike path and if it has been closed off to the public. Ms. Rolison stated it is a walking path and some people do use mountain bikes on it as well. The trail was sectioned off for the first two to three days after the spill and at one point Old North State pulled down the tape, allowing people to walk the path in that area. The HOA put the tape up and then the tape was brought back down a day later. The only treatment that occurred after the spill and repairs were made was a light spray of lime and straw.
- Ms. Donna Sukkar addressed the Planning Board: Good Evening and thank you for the opportunity to speak this evening. My name is Donna Sukkar. I am a resident of Briar Chapel and a member of the StopChathamNorth group which has organized to oppose making the Briar Chapel wastewater plant a regional plant to serve communities outside of Briar Chapel. I provided, in advance, a description of the most sewage recent spill in Briar Chapel (over 25,000 gallons of raw sewage dumped into Pokeberry Creek a tributary for Jordan Lake) which Ms. Rolison has already addressed and I provided a copy of a letter from Mr. John McDonald, President of Integra Water in response to that spill. I hope you have had an opportunity to review both. I would like to specifically call your attention to the comments made by Mr. McDonald in his email to the residents of Briar Chapel after the July 26, 2020 massive sewage spill occurred in Briar Chapel. Mr. McDonald stated “It is becoming clearer and clearer that the Briar Chapel water reclamation system is in dire need of upgrades to handle the increased size of the community. With so many residents spending so much time at home over this unforeseen pandemic, its usage has increased and unforeseen stresses have exacerbated weak points in the system.” Mr. McDonald goes on to say that they have “found that the original line is a PVC piping that while within code is potentially faulty or defective” and that “this defective pipe is failing to meet the demands of the community today”. Taking into consideration the information provided this evening by Ms. Rolison which highlights the continuing failures of our wastewater system and the confirmation provided by Mr. McDonald of the dire upgrades needed to handle the demands of the community today, we are asking you, to please deny Newland’s request to increase the size of our community until such time that Newland and Integra can partner to identify and complete the upgrades needed to “ensure the system is safe and scalable” to support the Briar Chapel Community. We cannot continue to dump thousands of gallons of raw sewage into Jordan Lake – the primary water resource for Chatham County. Ms. Sukkar thanked the Planning Board.

- Ms. Patricia Van Hoy provided a statement in writing before the Planning Board meeting and asked for it to be part of the record. Ms. Van Hoy stated to the Planning Board in writing: My name is Patricia Van Hoy and I live at 120 Middleton PL. I am writing to oppose the approval of Phase 13 Section 3 of Briar Chapel. Originally Briar Chapel was approved under the Compact Community Ordinance and developed under the National Green Standards. Subsequently, Newland purchase additional land and added phases which brought the current occupied houses up to 2002. There are an estimated 458 additional lots approved but not yet completed. With each additional phase there have been wastewater treatment infrastructure problems, nuisance odor problems and plant mismanagement. Just recently, on July 26 there was a major pipe failure at Lilt Station A which caused over 20,000 gallons of raw sewage to gush over Briar Chapel community property into Pokeberry Creek. Records show the wastewater treatment plant is operating regularly between 85-90% capacity. Additionally, there are three schools connected to the wastewater treatment plant but not currently occupied. This plant cannot process anymore sewage. There could be a major catastrophic failure. This wastewater treatment plant is surrounded by private residences that have to deal with odors and spills on a regular basis. This plant has been cited with over 14 Notices of Violations from the North Carolina Department of Environmental Quality. With all these facts there can be no justification for approving connection of another 59 homes to the wastewater treatment plant. Thank you.

VII. SUBDIVISION:

1. 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 13 Section 3, consisting of 59 lots on 18.66 acres, located off Great Ridge Parkway, SR-1692, Baldwin Township, parcels #2617.

Mr. Sullivan stated the request is for Final Plat approval of Briar Chapel, Phase 13 Section 3 consisting of 59 lots on 18.66 acres with a financial guarantee for the completion of required infrastructure. Phase 13 Section 3 received preliminary plat review and approval by the Board of County Commissioners on March 18, 2019 for 59 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 July 10, 2020, has been provided by Chris Seamster, PLA, McKim & Creed, Inc. stating that the required infrastructure is 42% 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. Phase 13 Section 3 is located off Great Ridge Parkway. There are no private alleyways, no additional parking, and one public road (Monteith Drive). Phase 13 Section 3 has one common area, Common Area #97. As shown on the plat, Common Area #97 has 28.729 acres. There is a 100' perimeter buffer provided along Nelson Goines (parcel 64529, 64534, 64535, 64536), Jeffrey & Terri Maynor (parcel 62262 & 62259 and Marjorie Oakley (parcel 73218) properties.

Mr. Sullivan also stated riparian buffer widths of 50 feet per side (100' total) and 100 feet per side (200' total) measured from top of bank landward have been shown on the plat. There are two stormwater feature in Phase 13 Section 3. The final plat information includes the approximate storm water 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 July 15, 2020, to review the request. There were no staff concerns.

Mr. Sullivan stated 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 13, Section 3 will have 59 homes on 18.66 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 13, Section 3 has public roadways connecting to the balance of Briar Chapel.

In closing, Mr. Sullivan said the Planning Department recommends granting final plat approval of "**Final Subdivision, Easement, and Right-of-Way Dedication Plat of Briar Chapel Development Phase 13 Section 3 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:

- Chair Lucier stated Briar Chapel was approved for 2300 lots with 350 apartments totaling 2650 residences. How many of those 2300 lots have reached the final plat stage, but construction has not begun. Mr. Robinson stated as of this week 2008 homes are occupied and after this phase of 59 lots, only 89 more lots are yet to be platted. He stated this should be the end of the lots and it is under the original 2300.

Chair Lucier stated the capacity of the sewage treatment plant is getting close to capacity and given the e-mail by Mr. McDonald about the problems with the force main pipe and recurring problems, why not delay this final plat application until those repairs are complete so the force main system is structurally sound and the residents of Briar Chapel don't have to put up with recurring sewage spills. Why add to the system when you can delay and have the attention focused on repairing and replacing the lines that need to be replaced. Chair Lucier stated he saw the video of the spill and it didn't look very good. As a developer you need to be concerned about that, which I'm sure you are, and consider delaying this final plat. Chair Lucier stated he has no problem approving this final plat once the issues are repaired and would like to see that done.

Mr. Robinson stated he saw the video of the spill and it is natural for people to see that and find it to be not good. The developer is very sympathetic about the issue and wants to make sure the wastewater treatment system at Briar Chapel gets returned to its proper functioning as it did for years and years. What is important now is to make sure the Board is focusing on who's who in this calculation. The developer is NNP Briar Chapel, LLC, and their business, business model, and business plans rely on creating, building lots, and selling them. The developer is not the utility company, Old North State Water Company is the utility and they are regulated by the State of North Carolina. They are a regulated

public utility and if there are operational issues with regards to Old North State, which there clearly are, those issues need to be addressed by the regulatory body that addresses that. Mr. Robinson stated in terms of what the Planning Board has in front of them tonight, it is always important to remember the context, which is a few months back this exact same plat was before the Board as a preliminary plat review and was approved unanimously with two conditions and both of those conditions have been met. Mr. Robinson stated it is easy to forget in Chatham County a preliminary plat is the developer's authorization to construct. That means they can start building the phase and that also means hundreds of thousands, if not millions of dollars have been spent by the developer in reliance of the approval of the final plat. The fact that when they built 40% or more and spend the money to do that, all they have to do is come back and apply for the final plat and unless there is some element of the subdivision ordinance that is not met, it has to be approved. That is the situation NNP Briar Chapel, LLC is in right now, they have done everything they were supposed to do and have not done anything they weren't supposed to do.

Mr. Robinson stated if you look at the subdivision ordinance Briar Chapel has checked every box and they are entitled to this approval. If these lots get approved, platted, and sold, ultimately the builder will have to get various permits, one will be a certificate of occupancy and tap onto the utility. If there is an issue with capacity for any operational issue that the Utilities Commission believes will cause problems they need to withhold that permit. DEQ or the Utilities Commission would be the regulatory body, not the Planning Board or the Board of Commissioners. Don't punish NNP Briar Chapel, LLC with a financially costly delay while they have to wait for somebody else to repair some functional issues. There is not a bases for doing that under the subdivision ordinance.

- Chair Lucier stated the Ordinance Establishing the Planning Board has language and a charge about the need to address issues in the health and safety for Chatham County residents. Mr. Robinson stated he agrees with that, but the subdivision ordinance also says that the subdivision ordinance itself is the embodiment of the public health, safety, and welfare for the County. The Planning Board is to make sure that the subdivision ordinance gets passed. Mr. Robinson gave an example where he lost electricity at his house 5 times in the last two weeks and also lost power at his office while conducting business. If somebody is developing a subdivision that is using Duke Progress Energy and they are having operational problems, he wouldn't expect the Planning Board to say you can't have the plat for that neighborhood because Duke Progress is having an operational issue. Mr. Robinson stated he understands the natural human instinct to want to do something about this when videos and reports have been sent to the Planning Board. It is appropriate to be concerned about it, but it is also important to remember there is a third party that is involved and they have done everything they were supposed to do according the subdivision ordinance and let them go about their business.
- Mr. Spoon asked if there is a representative from Old North State Water who can communicate with what they are seeing. Mr. Robinson stated he doesn't believe there is a representative at this meeting because it is a separate company, but Mr. Sullivan has received some e-mails from their representative that says there is more than enough wastewater treatment capacity to add 200 plus lots at this time. Mr. Spoon stated he has seen that e-mail, but they also said there were some serious issues handling what they already have existing for residential. The concern is, was a substandard system turned over to a private utility that can't handle what they currently treat, and they need to figure out if that is the case. Mr. Robinson stated that is a legitimate area of inquiry for the body that regulates the wastewater utility. Mr. Spoon stated they regulate what people can theoretically do, but reality regulates what actually works and we need to figure out if this is working and what the issues are.
- Vice-Chair Siverson stated she wanted to review the history because when Briar Chapel was first coming in for approval they built the wastewater treatment system. Old North State may be the utility

company now, but it didn't start out that way, so who is responsible for the substandard piping. Some clarity on the history would be good because at one time the wastewater treatment plant was built and designed by Briar Chapel and part of Briar Chapel. Mr. Robinson stated that is true, it was constructed by the developer and acquired by Old North State some years ago. He stated this is a good illustration if the Planning Board starts to step in the areas that are not part of its purview, where we can all get lost. There are a lot of questions that are raised by what is happening with these sewer mains right now. There is absolutely no verifiable information that you or I have access to, to confirm the breaks that are happening now have anything to do with the way it was constructed or installed. It could be issues with the way it was maintained since that time or the way they have done all kinds of other things. It is significantly outside of the domain and purview of understanding for the Planning Board to try and isolate who is at fault and imposing a delay at who you may believe is at fault.

- Ms. Weakley stated she disagrees and read from the Compact Community Ordinance page 6, under Public Filing of Wastewater Documents, "To allow for ongoing public review, the developer of each proposed compact community shall furnish Chatham County an as-built copy of the plans and specifications for wastewater treatment facilities, infrastructure, and disposal or irrigation system, including all documents related to the location, sizing, ownership, and management of the disposal and irrigation sites used for the compact community, as well as any operational performance reports and data for water quality monitoring conducted for the treatment, disposal, and irrigation facilities and receiving waters surrounding them prior to final plat approval. The developer shall require the operator of such systems to furnish the County with copies of any approved plans modifying said systems and to notify the county and the residents of the compact community of any violations or citations issued in connection with the operation within 30 days thereof."

Mr. Robinson stated it is true that is all in the ordinance, but the matter that is before the Board tonight is Phase 13 section 3 Final Plat. There is nothing in that section of the Ordinance that has anything to do Phase 13 section 3 Final Plat, and the role of the Planning Board is to look at this plat and determine whether or not it complies with the requirements of the subdivision ordinance and Planning staff has informed the Board that it does. Ms. Weakley stated what she just read references, operational performance reports and data for water quality monitoring conducted for the treatment, disposal, and irrigation facilities and receiving waters surrounding them prior to final plat approval. Mr. Robinson stated every aspect of the wastewater treatment system that is to be installed in Phase 13 section 3, all the information that the Board needs has been supplied with respect to that phase. Ms. Weakley stated she disagrees. Mr. Robinson said he understands.

- Mr. Spoon stated building a perfectly good section and then feeding into a non-functioning system is not a good thing. Mr. Robinson stated he agrees, but what is not good about it has nothing to do with the party that the Board is asking to suffer economic consequences of a delay. It is not their fault and had nothing to do with those issues and the party that does have fault is not in front of the Board tonight and wouldn't be because they are regulated by another body.
- Chair Lucier stated it was Briar Chapel who constructed the wastewater treatment plant. Mr. Robinson stated yes, but we have no idea if they did anything incorrect when constructed. Ms. Weakley stated it was obvious. Mr. Robinson stated it is not obvious at all, it could be maintenance or any other thing that occurred after Briar Chapel turned the utilities over to Old North State and the reason why he raises this point is because we don't know the answer to that. The Planning Board has not been charged with determining whether or not there were manufacturing or installation defects in a wastewater treatment system. Mr. Spoon stated this item should be tabled until an independent review can determine that.

- Chair Lucier stated, from the comments from Mr. Robinson it doesn't seem like Briar Chapel has considered delaying the application. Mr. Robinson stated no. Chair Lucier stated he assumes Briar Chapel is having conversations with Old North State to see how long it will take for these issues to be repaired or replaced so there is a sound wastewater treatment piping system going into the treatment plant with confidence that it will work for the citizens. Mr. Robinson stated he agrees with that and may have overstepped because Briar Chapel is thinking about a delay, but there is a disconnection between what Old North State does and what NNP Briar Chapel does. NNP Briar Chapel can't control Old North State.

Chair Lucier asked if Old North State informed Briar Chapel how long it would take to fix the issues. Mr. Robinson stated no, Old North State has not stated how long it would take and they have made some significant repairs along the way they thought would fix the issues and it didn't. Through no fault of their own, Briar Chapel will be waiting for somebody else to fix the issues where Briar Chapel doesn't have any control over, but ultimately if there is an operational issue that needs attention by the regulatory authority that is charged with regulating it, that is a self-correcting problem. If the Planning board approves this final plat and there are lots created on the phase, but there are operational issues, they will be addressed by the regulatory authority, which will stop the development in that location. Now is not the time nor is it the Planning Boards responsibility it impose this punishment on a developer. The role of the Board is to determine whether or not this plat meets the checklist, not to solve the problem somebody else has created.

Chair Lucier stated he helped write the Compact Community Ordinance and spend a lot of time doing that, but the bottom line is you telling us what the role is for the Planning Board, he is not comfortable doing anything until he hears a legal opinion of what Mr. Robinson had said about the Planning Boards role and what the Board can and can't do. Ms. Weakley stated that is correct and the proper filing of wastewater documents in the Compact Community Ordinance needs to be interpreted. The Board is also responsible for public health and safety of the County in making our decisions and given the evidence the Board has received from recent events, in good conscience, she can't allow anymore final plats or approvals in Briar Chapel until we get more information on what is happening with the infrastructure.

- Mr. Arthur stated it is in our ordinance that we have consideration of the public welfare, health, and safety. It is within the Boards purview and the company Old North State has been bad for a long time and this is a threat to community health and safety and a delay is well worth doing.
- Mr. Frazier stated it is not at all clear that the Planning Board has the authority to turn this application down, but we do have two more meeting to review it and make a recommendation. Mr. Frazier would like to move that this item is tabled and hope that at the next meeting they are able to provide the Board with information to allow us to approve it in good conscience. Chair Lucier stated he agrees with Mr. Frazier, but we would also need to run some of this by the County Attorney.
- Ms. Weakley stated on the Final Plat provided, the label for private drainage easement is not in the legend and the application stated there was no flood area, which is incorrect. Those need to be addressed on the Final Plat before it is approved. Mr. Seamster asked Ms. Weakley for more clarification about the floodplain issue. Ms. Weakley stated the flood map shows zone X, but it is zone AE which is a misrepresentation to what is on the Final Plat. Mr. Seamster stated that was not their intension for a misrepresentation, the developed area is zone X. Ms. Weakley stated in the area you are asking for approval, there is flood area. Mr. Seamster stated yes, but that is the parent track. Ms. Weakley stated it should go with the parent track. Mr. Seamster stated okay and understood and will add the private drainage to the legend as well. Ms. Weakley stated there is a lot of public and private

easements on this plat and it is very confusing because they change quickly. Ms. Weakley also asked about the financial guarantee for infrastructure at 40%, is that just for the road or also for sewer and water. Mr. Sullivan stated the financial guarantee will cover infrastructure for that phase. There are about 30 different financial guarantees for Briar Chapel so different components are covered under different aspects. The 40% would include water and sewer lines, road construction, grading, and the conversion of erosion control devices to stormwater devices just within that phase. Ms. Weakley stated the Planning Board notes say that Briar Chapel have completed 42% of everything you mentioned; wastewater, water, roads, and stormwater. Mr. Sullivan stated yes, and showed the Planning Board pictures of the phase that were taken today which showed utilities and stormwater ponds. Mr. Sullivan stated there is a lot of work that is completed between preliminary plat and final plat with pre-2008 applications.

- Chair Lucier asked how the Planning Board members feel about this item. Mr. Spoon is in agreement about postponing this item until the next meeting, but with instructions on what the Board would like to see so the item can move forward, such as an independent review stating that the sewage system is up to meeting the needs. If there are issues with the system they were due to lack of proper maintenance not from the very beginning when it was constructed.

Ms. Hager agrees with Mr. Spoon and is a smart way to understand where the responsibility lies and the Boards responsibilities as to what we can and can't do. Ms. Moose agrees as well about the independent review and also communicating with the County Attorney about the capabilities of the Planning Board. Mr. Galin agrees and would like to postpone this item until the next meeting. He also mentioned with the COVID-19 virus a lot of people are at home taxing the sewer system. Ms. Weakley stated it should be capable to handle everyone at home. Chair Lucier stated he had heard from Briar Chapel that wastewater usage has been considerably less than originally predicted. Mr. Robinson stated the system was originally permitted for 250 gallons per day per residence and it is currently at a flow reduction by the Utility Commission at 189 gallons per day per residence and the actual flow is between 90 to 100 gallons per day per residence.

- Ms. Weakley stated she would like to know why on the plat it is showing some of the private drainage easements bypassing the stormwater pond, they seem to be going straight into Polkberry Creek. Mr. Seamster asked Ms. Weakley to point out exactly where she sees this discrepancy. Ms. Weakley stated there is a 10' private drainage easement on lot 2194 coming off of a 20' public drainage easement and also between lots 2183 and 2184. It seems like the public drainage easement is the responsibility of DOT and the private drainage easement is the HOA responsibility. Mr. Seamster stated they have had a lot of discussion with NCDOT about public and private drainage easements. The drainage easement that Ms. Weakley is referring to is a clear water bypass. This is collecting water from behind the developed portions of the lots on the east side and passing it through. This water is not coming from any impervious surface, but is coming from the perimeter buffer and the east and this is how we have handled some of these in the past.

Ms. Weakley asked why they are not routed to the stormwater pond. Mr. Seamster stated this water doesn't need to be treated because it is not running across or being generated from any residences or impervious surface of the development. It is collecting water before it gets to the development, from the woods and undeveloped portions so it is clean water going into the pipe system. Ms. Weakley asked if the private easement in between lots 2183 and 2184 is a channel of some sort. Mr. Seamster stated yes, there is contributing water that is not part of the development and they are not required by code to put into the stormwater treatment system and BMP, therefore we bypass the development as clean water. Ms. Weakley stated so it is a stream and she sees this a lot with older plats and it is frustrating because years later they are defined channels.

- Mr. Frazier made a motion to table the request for final plat approval. Chair Lucier stated with addition to some of the information Mr. Spoon requested regarding an independent review as well as the adequacy of the system to handle additional houses. Mr. Frazier stated he is not sure the Planning Board has the authority to ask for that request. He would certainly like to see a review, but does not know if the Board has the authority to ask for that. Chair Lucier stated the developer agrees to it. Mr. Robinson stated he does not recall agreeing to an independent review, but he remembers hearing it suggested. Mr. Robinson stated what the developer can do is undertake, in good faith, during the time between now and the next meeting, to figure out as much as we can as a third party about what is going on with the system and what the utility company in our development says what they are going to do to rectify it and how long it is going to take. Mr. Robinson stated it is in the developer's interest to look at this as well. Chair Lucier stated the Board will also consult the County Attorney about their role in this as well.
- Mr. Frazier stated he is not sure a motion to table an item can include conditions. It has been made clear to Mr. Robinson what we as a Board would like to see. Chair Lucier stated he believes we can add that in to motion. Mr. Frazier stated he withdraws his motion. Mr. Spoon stated that Mr. Frazier is correct and the Board doesn't have the legal authority to require an independent review, it would be the best thing to help convince the Board if this is the right thing to do for approving this plat.
- Chair Lucier stated it is always good to give clarity to what you expect from someone so people know what is going on when and item is tabled, but if that is the Boards wishes, that is fine.

Motion made by Mr. Arthur to table this items until the next Planning Board meeting, second by Vice-Chair Siverson.

- Ms. Weakley stated how does page 6 of the Compact Community Ordinance, Public Filing of Wastewater Documents, come into play, her worry is if they don't give explicit requests to the applicant we will be right back to where we are now, next month. Chair Lucier asked Mr. Sullivan how long the Planning Board has for this item for a recommendation. Mr. Sullivan stated the Board has 60 days to make a recommendation. Mr. Spoon stated the developer has a lot of moving parts and will probably get this information the Planning Board as quickly as they can. Ms. Weakley stated the Planning Board has stated for public record the information the Board is interested in and she had outlined he concerns on the final plat with the legend. It seems like Mr. Robinson has enough information to go on so we are not back here a month from now talking about the same thing. Mr. Robinson said yes.
- Mr. Robinson stated he recognizes everybody on this Board and you are good people of good faith doing your job as best as you can. We appreciate it and look forward to seeing you next month.

Chair Lucier completed a roll call vote and the motion to table this item until the September meeting was approved 10-0, unanimously.

- Mr. Frazier stated the issues that Ms. Weakley raised with the Compact Community Ordinance (CCO) has to do with what our authority is in this situation and he hopes it will be taken up with the County Attorney so we can clarify what authority we have as a Board to review. Ms. Weakley stated this is only compact community in Chatham County and this is an untested, to hold a community accountable to the public filing of wastewater documents requirement that is in the CCO and definitely needs to be asked to the County Attorney. Ms. Moose stated in the CCO there is also a section called, Wastewater

Treatment System Operation and Management, it is about provisions being made for sludge management and odor control. It would be good to look at that section as well.

- Chair Lucier stated some of the questions we have as a Board is one, relates to the CCO and what authority we have as a Planning Board mentioned by both Ms. Weakley and Ms. Moose and two, how is our charge as a Board for the health and safety built into the Ordinance to Establish a Planning Board and how does that give or not give the Board authority to act on that basis. Ms. Weakley mentioned the financial guarantee piece in the CCO as well. Ms. Moose stated if it is not the Planning Boards job, then whose job is it to give the residence more information and what they can expect. Ms. Hager stated when this item comes back it does need to be clear because right now she would not vote to approve this final plat and if that is not something us as Board members were legally not allowed to do, then that is something we want to look at when reviewing the Ordinance. Plus, figure out who is responsible and what we do about wastewater going straight into Polkberry Creek.
- Ms. Weakley stated she did look at the StopChathamNorth website after the Board members received the e-mails today and it is not just this pump station issue, but also the irrigation lines that are failing. This is the largest development in Chatham County and they are talking about making this a regional wastewater facility for other developments and they can't even contain the stuff within their own boundaries. As a Board we need to make sure we are very clear in our responsibilities for not only this phase, but the other 89 lots that are coming for Briar Chapel and any developments that think they are going to tap into the wastewater treatment plant for Briar Chapel. Ms. Weakley stated if we don't get this right we are in for big trouble and water quality is already bad in Jordan Lake.
- Mr. Sullivan stated he will post the recording of this meeting so if anybody needs clarification on this discussion it will be available for them. He also stated he will email the link to anyone who asks for it.

VIII. ZONING: No Items

IX. NEW BUSINESS:

X. BOARD MEMBERS ITEMS:

1. Update from the Planning Board liaisons.

- Chair Lucier stated he did not attend the August Pittsboro Planning Board.
- Vice-Chair Siverson stated the Siler City Planning Board minutes had a couple rezoning items to light industrial, one being the farm on East Raleigh across from Mountaire.
- Ms. Moose stated the Agriculture Advisory Board is reviewing applications for their new Board members and they have extended the deadline. They have a new Chair and there was also some discussion about well capacity with respect to subdivisions and the resolution that they passed in 2017. Chair Lucier asked Ms. Moose to send all the Planning Board members the resolution.
- Ms. Weakley stated the Chatham Conservation Partnership hopes to have a virtual October meeting and the agenda topics is spiders.

2. Continuation of a discussion from the July Planning Board meeting about the number of wells in major subdivisions.

- Chair Lucier stated during the meeting in July the Planning Board had a discussion about the number of lots with wells that would be allowed in subdivisions and whether or not that is something we as a Planning Board should embark upon to making a recommendation to the County Commissioners. Chair Lucier, Vice-Chair Siverson, and Mr. Sullivan had a phone discussion about establishing a subcommittee to look further into this topic. Chair Lucier asked Vice-Chair Siverson to Chair this subcommittee. It will be a very busy few months with the William's Corner item and other public hearings coming up so it may not be possible to start right away, but it is something we would like to do soon. If you are interested in serving on the subcommittee contact either Vice-Chair Siverson or Chair Lucier. Vice-Chair Siverson stated she looks forward to people volunteering and starting this topic probably in the New Year, but between now and then start doing some research. Chair Lucier stated it will be complicated and a lot of different things to think about.
- Ms. Weakley stated we can't just consider wells because there is also septic and off-site septic issues and how we deal with that. Not saying it would need to be in this subcommittee, but there are a lot of things that are piling up that need to be addressed that the UDO would have helped with. Chair Lucier stated Ms. Weakley is correct and perhaps we need to have multiple subcommittees looking at some of these issues because we thought that the UDO would cover some of these issues, but given the delay with that project maybe we want to move forward with something else. Ms. Weakley stated they are mutually exclusive, most the subdivisions the Board has looked at continue to deal with off-site septic issue. Chair Lucier stated Ms. Weakley is absolutely correct.
- Ms. Moose stated she has sent everybody the link for the resolution from the Agriculture Advisory Board and she would also like to volunteer for the well capacity subcommittee.

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. *Upcoming Public Hearings.*
3. *UDO Update.*

XII. ADJOURNMENT:

There being no further business, the meeting adjourned at 8:20 p.m.

Signed: _____ / _____
George Lucier, Chair Date

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