



## Chatham County Planning Board Minutes February 2, 2021

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	Caroline Siverson, Vice-Chair
Jon Spoon	Jamie Hager
Clyde Frazier	Emily Moose
Allison Weakley	Bill Arthur
Eric Andrews	James Fogleman

### Absent

Dustin Mauldin

### Planning Department

Jason Sullivan, Planning Director, Kimberly Tyson, Subdivision Administrator, Angela Plummer, Zoning Administrator, Janie Phelps, Zoning Official, 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. Mauldin 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:

Consideration of the January 5, 2021 Planning Board minutes. Motion made by Vice-Chair Siverson to approve the minutes, second by Mr. Spoon and the January 5, 2021 minutes were approved 7-0, Mr. Arthur, Mr. Andrews, and Mr. Fogleman did not vote because they did not attend the January meeting.

### VI. PUBLIC INPUT SESSION:

Chair Lucier asked that each citizen who wished to speak to raise their hand after the staff notes at each item. There were no citizens to speak on a topic not related to the agenda.

## VII. ZONING:

1. A quasi-judicial public hearing for a request by Matthew Malone, for a Conditional Use Permit Revision for a site plan change and request additional uses, Parcel 2759 being approximately 2.29 acres, located at 9553 US 15-501 N., Baldwin Township.

Ms. Phelps stated in reviewing and considering approval of a Conditional Use Permit, the Board must find that all of the findings of facts shall be supported. Per the Zoning Ordinance, "In considering an application for a conditional use permit or revision to a CUP, the Board of Commissioners shall give due regard that the purpose and intent of this Ordinance shall be served, public safety and welfare secured, and substantial justice done. If the Board should find, after public hearing, the purpose conditional use permit or revision thereof should not be granted, such proposed permit shall be denied."

A community meeting is not required for revisions to a CUP per the Zoning Ordinance. The applicant provided a site plan for the Chatham County Appearance Commission on August 26, 2020. He was not present, but the site plan showed supplemental vegetation along the western border of the most recent development (gravel parking lot). The members suggested specific species and how many of each should be planted, with spacing requirements. Staff gave this information to Matt Malone, and he returned a site plan showing the suggestions. The CCAC then approved this site plan.

At the regularly scheduled Planning Board meeting on January 5<sup>th</sup>, this item was discussed. Ms. Weakley motioned to table the discussion until a stream determination was made on the property. The motion passed unanimously, 8-0. On January 15, 2021, Drew Blake from the Watershed Protection department visited the property for a stream determination. It was discovered that there are two intermittent stream segments and one perennial stream segment. The report has been included as an attachment. In discussions with Mr. Blake, he indicated that it was difficult to tell if the parking lot expansion encroached into the 50' Jordan buffer associated with the water features and that a survey was recommended. A condition has been added to address this item.

**Finding 1 - The use requested is among those listed as an eligible conditional use in the district in which the subject property is located or is to be located.** The applicant answered N/A, as this use is allowed as a CUP within R1 zoning. **It is the planning staff's opinion this finding is met.**

**Finding 2 - The requested conditional use permit or revision to the existing permit is either essential or desirable for the public convenience or welfare.** The applicant will leave existing vegetation, and supplement along the western border of the new area of the gravel parking lot. Previously, the rear of the property had limited access for emergency services, but with the expansion, this has been made more accessible and increased safety.

The applicant is also requesting additional uses for the property. The current Conditional Use Permit was approved in 2010 and has not been revised since. The area has increased in development, both commercial and residential since, and it is the desire of the property owner and applicant to improve potential marketability of the property, while also keeping the site in compliance with all other regulations. **It is the planning staff's opinion this finding is met.**

**Finding 3 - The requested permit will not impair the integrity or character of the surrounding or adjoining districts, and will not be detrimental to the health, safety, or welfare of the community.**

The property has been in non-residential use since 2010. The request was initiated by a complaint about development occurring on site. After planning staff further reviewed the original approval, it was determined that a revision is required for any change to the site plan. It was suggested to review the current table of uses in the Zoning Ordinance to add/remove any uses as the applicant saw fit. Uses were added in order to improve

future marketability for the site. As a result, if approved, the applicant is projected to add 3 full-time jobs. **It is the planning staff's opinion this finding is met.**

**Finding 4 - The manner in which the proposed amendment will carry out the intent and purpose of any adopted plans or part thereof (i.e., Comprehensive Plan, Chatham/Cary Joint Land Use Plan, etc.) You must note specifics from the plan/s giving reference to page number and section.**

The applicant's business, Nature Trails, LLC, will support the preservation and protection of the rural character and natural beauty of the lands, conserve natural resources, and provide recreational opportunities and access to open space (Comprehensive Plan page 40).

The applicant references multiple strategies and policies that support the request. Economic Development Strategy 6.3 is supported by increasing tourism and recreation opportunities and amenities. Natural Resources Primary Goal of conserving natural resources is supported because the trail development is constructed with minimal equipment, with much of the development being done by hand. All goals of Parks and Recreation (provide recreational opportunities and access to open space, foster a healthy community, and conserve natural resources) will be met with the approval of the revision request. Additionally, the applicant references Economic Development Policy 6 on page 57 which encourages "support entrepreneurship and new businesses that diversify the local economy and capitalize on the unique assets of Chatham County". **It is the planning staff's opinion this finding is met.**

**Finding 5 - Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary facilities have been or are being provided consistent with the County's plans, policies, and regulations.** All utilities are existing, the access to the rear of the property is improved with the new development, this site still meets watershed protection requirements, and the applicant's business will be providing recreational opportunities for Chatham County, the surrounding area, and internationally. **It is the planning staff's opinion this finding is met.**

**Based on all five findings being met, planning staff supports the conditional use permit revision request.**

Page 57 Economic Development Policy 6 states, "Support entrepreneurship and new businesses that diversify the local economy and capitalize on the unique assets of Chatham County". This project diversifies the local economy and capitalizes on the unique assets of Chatham County as there is no similar use currently, as well as including additional uses to support future marketability of the property. Page 58 Economic Development Strategy 6.3 states, "Support increased tourism and recreation opportunities and amenities, particularly promoting sustainable tourism and authentic experiences". This applicant's business is to provide recreation opportunities, and the additional uses requested are in sync with the development of the surrounding area.

Ms. Phelps stated in closing the Planning Board has up to three meetings (January meeting was tabled for further evaluation, two meetings remain) in which to make a recommendation to the Board of Commissioners. The following conditions are provided for consideration if recommended for approval:

**Site Specific Conditions**

1. The recommendations from the Chatham County Appearance Commission (CCAC) shall be followed as stated in the minutes. The planning staff and CCAC may conduct routine inspections of the property to ensure compliance with the landscaping requirements.
2. The water features that identified in the Riparian Buffer report dated January 19, 2021 and conducted by Drew Blake must be surveyed and include the required buffers and any potential encroachments into the buffer. Any encroachments must be remediated pursuant to the Jordan buffer rule requirements in coordination with the Chatham County Watershed Protection Department.

3. A building permit shall be obtained and remain valid at all times within two (2) years of the date of this approval or the conditional use permit revision becomes null and void.
4. All existing conditions shall remain in effect, except as modified by this conditional use permit amendment.

### **Standard Site Conditions**

1. The application, standards and adopted regulations of the applicable ordinances and policies, and the approved recommendations as provided for and/or conditioned, are considered to be the standards as set forth and shall comply as stated. Changes or variations must be approved through the Planning Department or other approving board before any such changes can take place. These include, but are not limited to, landscaping, lighting, signage, parking, building construction, etc.
2. All required local, state, or federal permits (i.e., NCDOT commercial driveway permits, NCDWQ, Chatham County Land and Water Resources, Environmental Health Division, Building Inspections, Fire Marshal, etc.) shall be obtained, if required, and copies submitted to the Planning Department to the initiation of the operation/business.

### **Standard Administrative Conditions**

1. Fees - Applicant and/or landowner shall pay to the County all required fees and charges attributable to the development of its project in a timely manner, including, but not limited to, utility, subdivision, zoning, and building inspections.
2. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditions listed above.
3. Non-Severability - If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
4. Non-Waiver - Nothing contained herein shall be deemed to waive any discretion on the part of the County as to further development of the applicant's property and this permit shall not give the applicant any vested right to develop its property in any other manner than as set forth herein.

Planning Board discussion on the above item:

- Chair Lucier asked if Mr. Malone understands that he cannot get within 50' of the intermittent stream and 100' from the small part of the stream that is classified as perennial. Mr. Malone stated yes, he understands.
- Ms. Weakley stated in Mr. Blake's assessment it is recommended for a wetland delineation because there is a lot of wetlands on the property. There is also a survey to be completed to confirm the proximity of the parking lot to the Jordan buffer. Wetlands are wrapped into Jordan buffers and that is made clear per the North Carolina Administrative Code, if there are wetlands within the buffer or adjacent to the buffer, they all get wrapped into a buffer. To confirm this, a wetland delineation would need to be completed. Also, if the pond is hydrologically connected to the intermittent streams then the pond would require a 50' buffer as well, but that was not clear on Mr. Blake's report.

- Ms. Phelps stated there has been a site-specific condition added and it states, “The water features that identified in the Riparian Buffer report dated January 19, 2021 and conducted by Drew Blake must be surveyed and include the required buffers and any potential encroachments into the buffer. Any encroachments must be remediated pursuant to the Jordan buffer rule requirements in coordination with the Chatham County Watershed Protection Department.” Ms. Weakley stated that is great, but we should add a wetland delineation to be conducted to determine if there are wetlands present that need to be incorporated in that Jordan buffer.
- Mr. Spoon stated this item was recommended by approval by the staff last month and the Board asked for more conditions and asked the Watershed department to look at this site more closely and they provided a report. With two months of specific reviews, we need to trust our staff with the recommendations for this item and believes it is suitable.
- Mr. Malone stated he would be happy to comply with whatever the Planning Board wants to be conducted and would like to see everything resolved. The pond on site was man made and is not tied to or fed by the stream and does not hold much water anymore. Due to Mr. Blake’s report we agreed to have the property surveyed to make sure there is no disturbance within the riparian buffer and meet all the requirements so we can move forward.
- Chair Lucier stated the way this report is written; does that include a 50’ buffer around the pond? Mr. Malone stated no it does not, the pond is stagnant and not connected to the streams. Ms. Weakley stated the pond is probably an impoundment of springs that fed those streams and if they are hydrologically connected the pond requires a 50’ buffer per the Jordan Buffer Rules. Mr. Malone stated the stream is fed by a culvert that comes out from under Briar Chapel Parkway and not the pond. All the development on the site is not 50’ from the pond that was man made, the barn and all of the clearing is within 50’ of the pond. Ms. Weakley stated she just wants to make sure we are following the Jordan Buffer Rules.
- Vice-Chair Siverson stated Mr. Blake was on site and has great faith in him and his assessment. If there were more required, he would have noted that. Ms. Weakley said the reports states, “The existing pond will require if the intermittent stream is found to be located within 50-ft of the pond. Potential wetlands were observed entering the identified streams. These areas were only visually assessed as wetlands are not subject to buffers under the Jordan Buffer Rules. Should these areas be impacted in the future, we recommend contracting an environmental consultant to properly delineate the area.” Ms. Weakley stated she deals with Jordan Lake Rules every day and is just passing the information that she knows. The North Carolina Administrative Code does include wetlands into the Jordan buffer.
- Chair Lucier stated this is covered under the site-specific condition number 2, “The water features that identified in the Riparian Buffer report dated January 19, 2021 and conducted by Drew Blake must be surveyed and include the required buffers and any potential encroachments into the buffer. Any encroachments must be remediated pursuant to the Jordan buffer rule requirements in coordination with the Chatham County Watershed Protection Department.” It seems like this issue is covered by the condition.

- Mr. Sullivan stated staff with talk with Mr. Blake about the paragraph Ms. Weakley is referring to and clarify as it relates to the stream identification and the survey work that needs to be completed.

Motion made by Mr. Spoon to approve this item, second by Ms. Hager.

- Vice-Chair Siverson confirmed before the vote that if there were any changes to this site plan, the applicant would need to come back for approval. Ms. Phelps stated yes, they would need to submit a new application.
- Ms. Weakley wants to reiterate that the hydrologic connection to the pond and the streams will be looked at in the future and the wetlands get wrapped into the buffer if they are within 50' of the buffer or adjacent to the buffer per the North Carolina Administrative Code. Also, the Jordan Lake confirmation by Mr. Blake, the stream forms were all the same. They were meant to be different features, two intermittent streams and the one perennial stream, but what was included was the same form for all three streams.

Chair Lucier completed a roll call vote. This item passed 10-0, unanimously.

VIII. SUBDIVISION:

PUBLIC HEARING:

1. Request by Kirk Metty for subdivision First Plat review and approval of Chestnut Creek, consisting of 14 lots on 49.15 acres, located corner of Jones Ferry Road, SR-1540, parcel #1439.

Ms. Tyson stated the request is for First Plat review and recommendation of Chestnut Creek Subdivision, consisting of 14 lots on 49.15 acres, located off Jones Ferry Road, S.R. 1540. A vicinity map showing the property location, attachment # 2, is included in the agenda packet. 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 (2) meeting to act on the proposal.

**Roadways:** Chestnut Creek Way and Meandering Way Court are proposed to be built with a 20-foot-wide travel way and a 60-foot-wide public right-of-way and is to be state maintained. Walnut Branch Road is an existing gravel road that will have to be improved to a county standard road with an 18' wide travelway on the portions within parcel 1439 and follow the road standards in Section 7.2D (1-4).

**Historical:** The applicant contacted North Carolina Department of Natural and Cultural Resources letter dated November 7, 2019 stated, "no historic resources". The applicant contacted Bev Wiggins, Chatham County Historical Association. Ms. Wiggins corresponded by email dated January 30, 2020 and stated if any gravesite are discovered to please contact her. See attachment #3.

**Schools:** Notification of the proposed development was provided to the Chatham County School System. Chris Blice, Chatham County Schools Assistant Superintendent for Operations corresponded by email dated February 5, 2020. See attachment # 4.

**Timbering:** The developer, in 2019 by email correspondence, provided information that the project was timbered in 2016. Per the subdivision regulations, Section 1.14 G "property for which First Plat approval is sought was timbered in violation of development regulations, and the timber harvest results in the removal of

all or substantially all of the trees that were protected under County regulations governing development of that tract, the County may withhold approval for up to three (3) years after the completion of the timber harvest.” Watershed Protection staff determined that substantially all of the timber had been removed from several riparian buffers that apply to development so the three- year development approval withholding applied to the property. The three withholding time period has since expired. Due to the County’s cyber incident in October 2020, the email correspondence cannot be provided.

**General Environmental Documentation:** The developer submitted the General Environmental Documentation and a letter dated April 5, 2019 from North Carolina Department of Natural and Cultural Resources Natural Heritage Program to Chatham County Land & Water Resources Division for review. See attachments 5 & 6. The letter states “A query of the NCNHP database, indicates that there are records for rare species, important natural communities, natural areas, and/or conservation/managed areas within the proposed project boundary.’ The report findings included Dry Oak-Hickory Forest, Terrells Mountain, Erynnis martials (mottled duskywing), Somatochlora georgiana (coppery emerald), and Piedmont Monadnock Forest.

Rachael Thorn, Watershed Protection Director, reviewed the information submitted. Ms. Thorn letter dated February 21, 2020 comments included recent logging activities impacted the riparian buffer, the NCNHP indicated an ‘Element Occurrence’ was documented within the project area but the developer’s application indicates no impacts.

**Community Meeting:** A community meeting was held on April 29, 2019 at Cedar Grove United Methodist Church, 2729 Jones Ferry Road, Pittsboro. Approximately twenty-two people attended the meeting. Items/issues discussed included the number of septic lots on the southwest corner; concerns about effluent from drain fields and disturbance of the creek; whether the septic drain fields were going to affect existing wells; disturbance of the creek; will the creek be restored; how many creek crossings were proposed for the septic systems; creek flooding, the timeframe from the property being timbered until development; the requirement from Chatham County about environmental impacts; will there be high-speed internet or cable; would larger lots be considered; has a traffic count been completed, is a turn lane needed; will there be connectivity to Morgan Ridge; will there be open space for children to play; and whether there will there be a homeowners association.

**Technical Review Committee:** The TRC met virtually on January 13, 2021 to review the First Plat submittal. The applicant/developer Kirk Metty was present. Items discussed included public right-of-way width for the public roads (Chestnut Creek Way and Meandering Way Court) and the county standard road (Walnut Branch Road), performance guarantee, contacting the Historical Association if any buildings were discovered that were 50 plus years or older were present and if there are any graves, and multiple stream crossings for the septic and limiting the number of crossings. Watershed Protection Department were unable to attend the meeting, but comments were received via email dated January 13, 2021 and the comments were forward to Mr. Metty on January 14, 2021. The comments included four consecutive stream crossings did not meet the minimization requirements set by No Practical Alternatives under the Jordan buffer rules, stormwater BMPs needs to be designed outside of the riparian buffer, it was recommended that the stream crossings for the off-site septic for lots 8 and 9 utilize the impact of the existing culvert, it was also recommended that the off-site septic for lot 10 go around the northern end of the riparian buffer to reduce impacts, the crossings must meet the requirements in the “Septic Utility Crossings” of the Jordan buffer rules, access to Open Space B is restricted by the 100’ stream buffer, and Walnut Branch Road is required to be upgraded to 60’ wide right-of-way with 18’ wide travel way resulting in parallel impacts to the stream buffer on the southern portion of the property and would require mitigation.

**Septic:** A soils report and map, attachment #8, 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 but had questions about the off-site septic areas and the access.

**Water:** Individual private well water will serve the lots within this development.

**Road Name:** The road name Chestnut Creek Way and Meandering Way Court has been approved by Chatham County Emergency Operations Office as acceptable for submittal to the Board of Commissioners for approval.

**Water Features:** Sean Clark of Sage Ecological Services (Sage), submitted the Riparian Buffer Review Application along with a riparian buffer map, dated July 18, 2019, to Drew Blake, Senior Watershed Specialist for review. Ms. Jean Gibby of the US Army Corps of Engineers, Mr. Blake and Mr. Clark completed an on-site riparian buffer review on July 10, 2019 to verify the consultant's findings. Mr. Blake revisited the site October 28, 2019, Mr. Blake issued a confirmation letter of his findings. The October 28, 2019 confirmation letter stated two (2) ephemeral streams, four (4) intermittent streams, three (3) perennial streams, and twelve (12) wetlands were identified. The two (2) ephemeral streams require a 30-ft buffer, the four (4) intermittent streams require 50-ft buffers, the three (3) perennial streams require 100-ft buffer, and the twelve (12) wetlands require 50-ft buffers from all sides landward.

**Stormwater and Erosion Control:** Two stormwater devices are proposed and will be placed by Lots 6 & 7 and Lot 14 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 Visit:** Site visits were scheduled for January 22, 2021 for Planning Department staff, Watershed Protection Department staff and various Board members to attend. Kirk Metty was present to walk the property with staff and Board members and discuss the project. Areas viewed were wetlands, perennial streams, intermittent streams, and ephemeral streams. Pictures of the site visit can be viewed on the Planning Department webpage at [www.chathamnc.org/planning](http://www.chathamnc.org/planning), Rezoning and Subdivision Cases, 2021.

**Plan Chatham Evaluation:** 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 in an area of the county identified as Conservation on the Future Land Use and Conservation Plan Map. The description for conservation includes single family detached lots, attached units with overall very low density, open spaces with passive recreation areas, greenway trails, and variety of valuable natural resource areas. Conservation subdivisions are encouraged to protect nature resources while not disrupting agricultural practices.

Although the proposed subdivision is not a conservation design it 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 some rare species 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 informed the Planning Board of some public comments and concerns. Ms. Lisa Earle wrote, "I am an adjacent property owner to the proposed new subdivision on Jones ferry Road and I have a great concern. There is a wet weather stream that runs all the way through the proposed subdivision that passes right through my yard. My yard is underwater all times of year whenever it rains. The water in the stream runs over the bank and floods my yard. If it rains hard the water nearly reaches my home. We have never had it reach our home, but we have a very real concern at this point. First off, my husband and I were at the information meeting a couple of years ago at Cedar Grove church with Kirk Meddy. At the time there was a lot of people that were



very angry. When pressed, Kirk admitted that he will have to pump water up to some of the houses, which would mean the wet water stream will be overflowing the bank pretty much all the time. If not all the time. With that, in addition to any rain, my house will certainly be flooded. What type of recourse do I have should (When) this happens? This house is my life savings and the sale of it eventually is my retirement money. I am very concerned about this and very angry because we were here first and now we're going to have a big subdivision that's going to cause our home to flood. I am not the only one that feels this way there are more people along Walnut Road that are also very nervous and concerned that they too will be underwater."

Ms. Tyson stated in closing the Planning Department recommends granting approval of the road names Chestnut Creek Way and Meandering Way Court and granting approval of subdivision First Plat for **Chestnut Creek Subdivision** with the following conditions:

1. 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.
2. Final Plat shall provide location of mail kiosk.
3. Final Plat shall provide a note no ingress/egress for Lots 7-9 from Walnut Branch Road.
4. A copy of the road maintenance agreement for Walnut Branch Road shall be provided to planning staff prior to final plat approval.

Chair Lucier opened the Public Hearing for public comments:

- Mr. Jack Fowle stated we live at the top of the ridge of the hill just across the street and slightly to the left of the proposed development. Our property is located a bit to the north and west of it. We have lived here since 1988, and we highly value the dark nights and the beautiful night sky and peaceful woods on our property and surrounding it. We are concerned that the proposed development will create light pollution that will impact our ability to be able to see and enjoy not only the stars but also the peaceful deep darkness of the forest around us. Thus, we respectfully request that there be no street lamps installed in the development, and that there be restrictions preventing residents from installing things like street lights, pole lights in their yards, flood lights, and the like. We also respectfully request that any lights that are placed on the proposed houses in the development be of low brilliance and required to be shielded such that the light emitted from them is prevented from shining upwards.

Another big concern for us is the potential impact the development might have on our groundwater supply. Our house is elevated several hundred feet above Jones Ferry, and we have a very deep well. So, to the extent that our aquifer is tapped by additional housing seeking water we are concerned that the water table will be lowered causing us to lose water supply and cause us to have to dig a new well. We would like to hear what is being done to prevent this to ensure that it does not happen, as well as hearing what are the contingency plans or remediation being considered should this occur. Similarly, we would appreciate hearing about what is being done to prevent groundwater runoff from the proposed neighborhood onto the property of our current neighbors below us and across Jones Ferry Road. We assume that an Environmental Impact statement was performed with respect to the proposed development, especially given the small stream on or bordering the property, but we do not know if it was. Hence our concerns about potential runoff and the like.

Our other major concern is the impact of the development on traffic and the future of Jones Ferry Road. We deeply value the rural nature of our neighborhood and the rural nature of Jones Ferry Road. So much so that in fact when we and our "first settler" neighbors on top of Terrells Mountain built our

houses, we cleared an easement and made arrangements with CP&L now Duke Power, to have the main electric lines long Jones Ferry Road near our properties, as well as the trunk lines continuing up to our houses, placed underground to maintain the beautiful rural nature of the area by preserving the natural scenery rather than to have it marred by power poles and electric lines. We request that this character of the area be maintained and that should any additional power or other utility lines be installed that they be buried. While not specifically focused on the proposed Chestnut Creek development, we also request that Jones Ferry road not be widened and that its unique rural, natural nature be maintained. Mr. Fowle thanked the Planning Board.

- Mr. Stewart Bryan stated he lives at the end of Walnut Branch on parcel 1374 across the street from what looks to be about 5 septic drain fields. His first concern is about the amount of water that runs across this property, Terrells Mountain is just about the tallest point in Chatham County and has very steep slopes going towards Jones Ferry Road which will act as a levy because it is a raised road bed that concentrates the water and shoots it across this property. There is an unnamed tributary going under Walnut Branch and from 1979 to about 2010 that has never breached the banks, but recently it has raised 5 or 6 times and it is a lot of water, so much you cannot drive through it and it will not get any better with this development. This piece of land has been a well-functioning natural stormwater management feature up until the point when they logged it, then from that point it has regularly flooded. The whole concept of pumping untreated wastewater across properties and especially across streams is a foreign concept to me and do not understand how it ever came to be. Near my property they will have to cut 5 easements, maybe they can consolidate them, but from my understanding they are 15' easements. If you take into consideration the clearing of the lots, clearing for the roads, clearing for the easements, there is not going to be a whole lot of trees left standing on this property. There is no stormwater management feature that they can be built that will function the way this piece of property used to before it was logged. Out of the 14 lots, 12 of them will either be pumped across streams or wetlands, it does not make sense to me to develop a piece of property like this that is hammered by runoff from Terrells Mountain. Mr. Bryan thanked the Planning Board.
- Chair Lucier asked how many residences are located on Walnut Creek that are passed the proposed development. Mr. Bryan stated four.
- Mr. Metty stated these are good questions and have been brought up several times. I cannot speak to what the property was like before it was logged and was not responsible for the logging activity, but within the purview of what is required by the State, County, and all governing bodies, we are going to comply with everything relative to those requirements to provide a superior solution to what they are dealing with right now. In terms of alternatives, if the land were to sit as is, it would probably take 10 to 15 more years for it to naturally attenuate to what Mr. Bryan was describing. When we put in the sedimentation ponds that are required it should mitigate that to a large extent, will it address 500-year floods, I do not know, but it will be done in accordance with the required regulations.
- Mr. Carl Bose stated they are positioned on parcels 71599 and 71560 above the proposed property. We are concerned about the lighting pollution that has been discussed already and concerned about neighborhood dogs wondering over the property line. We have horses and we would hope for maybe a barrier or fence of some sort to avoid trespassing of people and pets We know that development is inevitable, but we hope that it is done in a way that is low impact. We do hope that there are limitations on pole lights and street lights. Mr. Bose thanked the Planning Board.
- Ms. Chris Liolia stated she is one of the 4 homes that is further down Walnut Branch and her primary concern is the stormwater issues and about the septic being pumped across the creeks. The stream

that crosses under Walnut Branch passes through my property and there is a video of my bridge being covered with the stormwater after the logging and during a dramatic storm. Ms. Liolia stated she has concerns about the water quality of the stream as it flows through her property and her ability to get in and out of her property. Ms. Liolia also has concerns about who maintains the stormwater treatment structures and the septic lines crossing the creeks, what happens when these things start to breakdown because we have all seen that happen.

Chair Lucier thanked the public for their input. Planning Board discussion on the above item:

- Chair Lucier stated the stormwater pond between lots 6 and 7 is located partially in the stream buffer. Also, why on lot 14 is there a septic easement when you could change the property line and lot 14 would have its own septic area without having an easement across lot 13. There is also a very close proximity of the septic drain area 8A and lot 13 to the Earle's property and their well, has Environmental Health looked at that? Chair Lucier stated he is troubled by some of the public comments and the fact that only 3 of the 14 lots have septic on their own lot without crossing streams or being off-site.

Mr. Metty stated it is obvious from the plat that this was a very challenging parcel to develop given the restraints from the State, local government, and water features. Most of the good perk soil was on the other side of the stream and it was always the intentions to have the septic systems where they are. We also reduced the lot count by 30% from 22 lots down to 14 lots and there really is no way to access the perk soil without crossing the stream from any of those lots. Concerning the lot line between lots 13 and 14 goes to the County requirement concerning those three lots off Walnut Branch being a minimum of 5 acres, that easement needed to be created so lot 13 could remain in compliance and still provide septic for lot 14. Concerning the proximity of the septic fields and the Earle's well, obviously those have been laid out by the soil scientist to comply with State requirements and the required setbacks.

Chair Lucier stated his other question about the stormwater pond between lots 6 and 7 touching the buffer. Mr. Metty stated regarding Mr. Blake's letter dated January 14, 2021, he specifically asked that I provide a certified letter stating we would not impact those buffers with the construction of those sedimentation ponds and that letter was provided to Ms. Tyson yesterday. We will provide both of those sedimentation ponds without impacting those buffers and we will move them accordingly, so we do not impact them.

- Ms. Weakley stated she would like to know how they are going to move the stormwater ponds without impacting buffers because at open space B as Drew Blake notes in his assessment that access to that stormwater control measure would impact the buffer. Mr. Metty stated there is some flexibility in terms of how we define the lot lines around 14 in such a way we can move that stormwater pond and not impact those buffers. Ms. Weakley stated that would be great and would like to see that on a plat. If this is not the final First Plat, then we need to wait until the next meeting to see that.
- Ms. Weakley stated it looks like lots 3 through 7 all must individually cross streams and wetlands to access their septic fields and be pumped up slope to the off-site area. Mr. Blake recommended in his assessment to consolidate those crossings and even with them consolidated there is a bunch of pipes crossing streams and wetlands. Mr. Blake recommended directional boring as an option as well, can you please respond to those concerns. Mr. Metty referenced the January 14, 2021 letter from Drew Blake we talked through several issues regarding those pump lines and came to an agreement to what would be acceptable from an environmental perspective which is basically trying to run those lines in parallel along the lot lines to minimize those creek impacts. Essentially, lots 3 and 4 will run in parallel, 5 and 6 will run in parallel and 7 will run along the lot line, 8 and 9 will run parallel and lot 10 we created the easement around riparian buffer as Mr. Blake requested to avoid that impact. All of the options have

been discussed with Mr. Blake and we believe we have come up with a plan that is acceptable in his perspective.

Ms. Weakley stated, but that is not shown on this plat. Mr. Metty stated no it is not. Ms. Weakley stated she would like to have Mr. Metty come back with a plat that shows explicitly where those crossings are going to be located and what lots are being fed by what crossings. Still have great concern that they are crossing streams and wetlands and being pumped uphill, almost all the lots must pump septic uphill to reach their suitable soils. Based on the soil evaluation by your consultant, some of these septic areas are conventional septic and some of them are drip or other source of septic, it is not clear from the plat what septic areas are receiving what kind of treatment for each septic.

- Ms. Weakley stated lots 6 and 7 the stream was deemed perennial and reduces to intermittent based on a stream determination. The County used to have carry-down rules, for instance if a stream is perennial and gets scored as an intermittent below that then the perennial classification actually carries down. There is a section in the Watershed Protection Ordinance that refers to field procedures for Chatham County. The plat is showing a 100' buffer to a 50' buffer, but the 50' buffer is not called out towards the bottom of lot 6 and 7. If the carry down rule were in effect then the open space A stormwater pond would be within that buffer. If that could be looked at and responded to as well. Ms. Weakley stated she is not in any position to vote approve or deny this tonight and should be tabled until next month meeting so some of these issues can be specifically addressed.
- Mr. Spoon stated he could not make the site visit when it was scheduled and was wondering if there could be another opportunity to walk the site because this is one of the most hydrological sites we have seen with a lot of septic pipes. Mr. Metty stated, we can arrange a site visit. Chair Lucier asked if staff and the developer could arrange a site visit for the members that would like to go. Mr. Sullivan stated yes, and it would be good to know when the Board members are available for the visit. There was some discussion about meeting during lunch time and would finalize availability, time, and day via email.
- Vice-Chair Siverson asked about Walnut Branch road upgrading it from a private road to a State maintained road, how far will that go down the road and how will it clear the stream buffer? Mr. Metty stated he has spoken with Mr. Blake and Mr. Sullivan about this road and was proposed to widen it to 60' only far enough to get access to lot 14 and slide the road a few feet to the north so it will not be impacting that stream buffer at all and provide the least amount of environmental impact.

Vice-Chair Siverson also asked about the culvert if it will remain or be removed? Mr. Metty stated the culvert will be removed and we will remediate that part of the stream. Vice-Chair Siverson asked who will be maintaining the stormwater features, HOA? Mr. Metty said yes, there will be an HOA established primarily for the annual maintenance and inspections for those stormwater features.

- Mr. Andrews stated he understands the challenges with the soils on this property, but he would like to echo Ms. Weakley's concerns and see if Mr. Metty could come up with a plan to share the stream crossing between lots 3 and, 5 and 6 and maybe even lot 7 as well. Mr. Andrews stated he would like to see the septic lines crossing the streams and wetlands at a minimum. Mr. Metty stated that is the intention at this point, the challenge is what the State considers an off-site septic and there is a lot of rules for access to the off-site septic systems that do not apply if the septic system is actually on-site. In the discussion with Mr. Blake, it was proposed to run the septic lines up against the property lines as close as we could to minimize the impact on the creeks and essentially have a single crossing. The least amount of stream crossings is the goal.

Ms. Weakley asked Mr. Metty to explain the idea about the septic lines running with the property lines. Mr. Metty stated the lines will run in pairs as much as possible, like lots 3 and 4 to put those two pump lines right up against the property lot line to what the Environmental Health department will allow as close together as possible. Ms. Weakley stated that still means there will be multiple individual lines across the streams and wetlands even though they are clustered. Mr. Metty stated yes. Ms. Weakley stated all these homes will have pumps to pump their septic uphill as well. Mr. Metty stated that is correct and it is a common practice. Ms. Weakley stated when it goes across streams and wetlands it is a big concern.

- Ms. Weakley asked what is the proposed plan for lots 8 and 9 to reach their septic fields if you are going to remove the culvert and remediate the stream? Mr. Metty stated to run lots 8 and 9 septic lines along the lot line between 8 and 9 and cross the creek at that location. Ms. Weakley stated there is still a lot of crossings and as Mr. Blake stated in his letter these crossings are cumulative and they have to show no practical alternatives.
- Mr. Frazier stated there has been a lot of discussion about how to get the septic across the creek, what about the equipment to install these septic lines and to repair them if needed, how are they going to access those septic fields? Mr. Metty stated there will be a temporary crossing in place to get back there and put the fields in and we would like to get all the septic fields in at the same time to minimize the crossing. Mr. Frazier asked about if there are repairs needed. Mr. Metty stated the home owner would be responsible for that and it would probably be a temporary crossing.
- Mr. Spoon stated because this property is so complicated with the streams and wetlands, why wouldn't you use something that aggregates multiple households? Mr. Metty stated something like a package system would be suitable for a property with around 40 homes to be economical. Ms. Weakley asked if a community septic field could be an option. Mr. Metty stated that is essentially a package system because you would not have a community field without a package system. Ms. Weakley stated her understanding is that a package system is more like treating water quality before it is discharged, and community septic is more aggregating septic going to a field.
- Ms. Hager stated she is concerned about the septic stream crossings as well and wondered if there is a way to find out different strategies for the septic situation for this project. Chair Lucier stated Environmental Health most likely provided some advice. Ms. Hager also stated a lot of the community members mentioned concerns for lighting and wanted to know what the plan for that was. Mr. Metty stated the plan is to have no street lights at all and any exterior lighting on the homes to be dark sky compliant as possible with no pole lights on a lot, that would be counterproductive to the neighborhood we are trying to put in, so we share those same concerns about lighting.
- Vice-Chair Siverson asked how will you address the concerns from Mr. Blake's letter stating lot 7 is basically not buildable? This lot looks very problematic and how will you run those septic lines? Mr. Metty stated we added an easement in front of the open space area that is specifically for that pump line to address Mr. Blake's concerns. As we look at aggregating these together as much as possible, we would look at running lots 6 and 7 together down that lot line perpendicular to the wetlands.
- Ms. Moose stated it was mentioned that the number of lots have been reduced, is this the maximum number of lots that can feasibly fit into this plan? Mr. Metty stated yes at this point this is the maximum number of lots. At the beginning we started with a goal of 22 lots, but just based on zoning it was not going to happen, so we are at the max number of lots right now. Ms. Moose stated because this is in a conservation area, what conservation benefit is there to this subdivision? Mr. Metty stated the

conservation benefit is we have very low density on 50 acres and minimal impact to the entire track. Ms. Moose stated, but it is as many lots as you can place in that area. Mr. Metty stated yes.

- Ms. Moose asked about impacts on groundwater and address the concerns of the public on that topic. Mr. Metty stated he is not a hydrologist, so he does not know the situation with the groundwater, but he lives down the road a couple of miles and they have not experienced any issues with their well or in the neighborhood and they have been there for 12 years. Mr. Metty stated he does not know what is happening 200' to 500' below the surface. Ms. Moose stated we are seeing an increase of concern in the community about groundwater and to address the neighbor's concerns mentioned earlier, I believe there is not a recourse if it impacts the groundwater and if your well goes dry. Mr. Metty stated no I do not have a recourse. Ms. Moose stated nor do the neighbors.
- Vice-Chair Siverson stated during the site visit it was observed that not all of the property was logged and there is still some standing timber on the property. What are the plans for tree removal, and will there be any effort to save as many trees as possible in light of it being in a conservation area? Mr. Metty stated yes, they share that same concern, and the goal is to minimize any tree removal. In fact, the area that was logged is where the homes will sit, the biggest impact will probably be where we have to put the septic fields. We do not want to take out any more trees than we have to and that is what people who move out to Chatham County want on their lots.
- Ms. Weakley stated looking at the photos from the site visit a lot of the larger trees are in the stream buffer and basically holding the banks together and I would strongly encourage you not to remove any of those trees. This property was timbered in 2016 and was probably done under a forestry exemption, and the County has held this property for 3 years before allowing development, do you have any plans to do any restoration of stream buffers? Mr. Metty stated when we remove the culvert there will need to be a buffer restoration, but beyond that he is not aware of any other restoration that needs to be done but is open to discussing that with Mr. Blake.
- Chair Lucier stated it was suggested to table this item until the site plan could be a little clearer for moving the stormwater features out of the buffer areas and minimize the stream crossings for the septic lines, is that still what the Board would like to do? Mr. Spoon stated he would like to visit the site. Ms. Weakley stated she would like to table the item and make some bulleted points as to what she would like to see.
- Ms. Weakley stated she would like to see stream crossings for septic areas are consolidated to the greatest extent possible, that may not mean single lot lines because then we still have a bunch of individual stream crossings. Ms. Weakley would like staff to comment on the 100' to 50' buffer carry down rule that might affect open space A on lots 6 and 7, in section 304 of the Watershed Protection Ordinance there are field procedures for that. Ms. Weakley would like to see how the stream crossing for lots 8 and 9 will be laid out and still has great concern about the off-site septic and would like to see it noted which lots are going across to off-site septic. Chair Lucier stated there should be some coding to see what lines are going where.

Ms. Weakley stated in Mr. Blake's letter if they want to directional bore then that is an option, you do not have to cross streams with septic lines you can also directionally bore from outside the buffer and then end outside the buffer. Mr. Metty stated he talked at length with Mr. Blake about directional bore and had to ask the question, if for any reason on any particular lot I could not do a directional bore, maybe because of subsurface rock or some issue that would keep me from directionally boring would I

be able to cross and he said basically yes. Mr. Metty stated he is looking at the option of directional bore but does not want to be limited to that to this point if there is some reason I could absolutely not do that. Ms. Weakley stated that is an option you could consider, and I do not know if you have had a geological report done on that property that shows where the rock is located. Mr. Metty stated as he comes to the Planning Board, he does not know how to express that as an option, certainly not on a plat that will be recorded. Ms. Weakley recommended for what the Planning Board is asking for you to come back with, that you are very explicit in the information you provide as to why or why not you can or cannot provide it.

Mr. Metty stated it is still unclear as to what you would like to see on a recorded plat in terms of pumped septic line whether it is a directional bore or cross a wetland, on a recorded plat that is not information that would typically appear. Ms. Weakley stated she would like to see all crossings, recorded plats would probably only show easements for those crossings, but if you are combining crossings then they would need to be in an easement. Mr. Metty stated if we keep the pump line on a specific lot, no easement would be required for that. Chair Lucier stated what we are asking is to show where all those crossings are and to minimize them to the extent possible. Obviously, you will not need an easement if it is all within one lot, but if it crosses a lot you will need the easement and that needs to be on the site plan. Ms. Weakley encouraged that any stream crossing is perpendicular to the stream as Mr. Blake stated in his letter.

- Mr. Andrews asked if this item is tabled until next meeting is it only limited to the concerns right now or is it open to other issues that might come up. Chair Lucier stated it is tabled and deferred because of things we want to look at, but that does not mean other issues cannot come up, we are not limited to what we can discuss next meeting. Mr. Sullivan stated the way the Subdivision regulations is instructed the planning Board only has two meetings to make a recommendation, so if there are items you might think about after the meeting send those questions or concerns to staff so we can bring those concerns to the developer before the next meeting.
- Ms. Weakley stated it would be very helpful to respond to each of Mr. Blake's concerns stated in his letter. Board members agreed to this statement as well.

Ms. Weakley made a motion to table this item until the March 2, 2021 Planning Board meeting, second by Ms. Moose. Chair Lucier completed a roll call vote and this item passed to be tabled 10-0, unanimously.

- Chair Lucier stated this item is tabled until next meeting and if any Board members have any concerns or questions to address, please circulate that to Mr. Sullivan so he can get them to Mr. Metty and also circulate it to other Board members.

#### IX. NEW BUSINESS:

#### X. BOARD MEMBERS ITEMS:

Update from the Planning Board liaisons.

- Chair Lucier stated the Pittsboro Planning Board meeting for February had a Red Moose Brewing Company that wants commercial areas to allow microbreweries, this was approved except in O&I. A new four-story Pittsboro Town Hall to include a parking deck. The mixed-use plan development at Northwood added one small parcel of 2.9 acres and the total is now 97 acres, 23 of the acres will be open space and 13 acres in tree coverage. Chatham Park had 2 final plats for their roads and were recommended for approval. There were also three phases for their subdivision that were also recommended for approval totaling 160 homes mostly single family and some townhomes.

- Vice-Chair Siverson stated the Siler City Planning Board meeting worked on amending their UDO for Chapter 160D. The Well subcommittee had the Environmental Health director speak about wells, permits, community wells, and wells going dry. The next meeting will be February 3<sup>rd</sup> and the utilities director will be giving a presentation.
- Ms. Moose stated the Agriculture Advisory Board meeting on January 12<sup>th</sup> had a presentation from the NC Forest Service about the Jordan Buffer Rules.
- Ms. Weakley stated the Chatham Conservation Partnership had a virtual meeting on January 21<sup>st</sup> on Water Resource Planning and had discussion on the Cape Fear River Basin Plan and the Jordan Lake Rules readoption process. The next meeting will be April 15<sup>th</sup> at 9am as a virtual meeting and the topic will be Dragonflies and Damselflies.

XI. PLANNING DIRECTOR'S REPORTS:

Mr. Sullivan reported on the following:

1. Minor Subdivision spreadsheet
2. UDO Update
3. County network update
4. Upcoming Public Hearing items.

XII. ADJOURNMENT:

There being no further business, the meeting adjourned at 8:35 p.m.

Signed: \_\_\_\_\_ / \_\_\_\_\_

George Lucier, Chair

Date

Attest: \_\_\_\_\_ / \_\_\_\_\_

Daniel Garrett, Clerk to the Board

Date