



Chatham County Planning Board Minutes July 6, 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

Jon Spoon, Chair
Caroline Siverson
Allison Weakley
Eric Andrews
James Fogleman

George Lucier, Vice-Chair
Jamie Hager
Brittany Harrison
Bill Arthur
Clyde Frazier

Absent

Planning Department

Jason Sullivan, Planning Director, Kim Tyson, Subdivision Administrator, Hunter Glenn, Planner I, and Daniel Garrett, Clerk to the Planning Board.

I. CALL TO ORDER:

Chair Spoon 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 Spoon stated there is a quorum, 10 members present.

IV. APPROVAL OF AGENDA:

Approval of the Agenda - Chair Spoon 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 June 1, 2021, Planning Board minutes. Motion made by Ms. Weakley to approve the minutes, second by Mr. Fogleman. The June 1, 2021, minutes were approved 10-0.

VI. PUBLIC INPUT SESSION:

Chair Spoon 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. SUBDIVISION:

1. Request by Zachary Fuller, PE on behalf of Swain Land & Timber, LLC for subdivision **First Plat** review and approval of **McBane Park Conservation Subdivision**, consisting of 149 lots on 161.97 acres, located off Old Graham Road, SR-1516, parcel #85448.

Ms. Tyson stated the Planning Board met June 1, 2021 to review this request and during the public hearing several adjacent property owners spoke of their concerns. The concerns included the developer not following regulations resulting in violations on other projects, light pollution with the proposed 149 homes, increased traffic, water quality, stormwater runoff, location of the homes along Dry Creek are high density and would like to see 1-3 acres size lots in the proposed area, would like a 200' wide buffer along Dry Creek, flooding on Dry Creek, and the use of contaminated water from Pittsboro.

Mr. Jason Bertoncino, Civil Engineer, explained the stormwater ponds are designed to capture 1 ½-inches of runoff from the roads and rooftops, this design will allow detention that will filter out pollutants, and the ponds are constructed for a 25-year storm event. A 25-year storm event is not a 100-year event but is similar in nature. The backyards of the homes located along Dry Creek would not be captured.

Board members had concerns with a stormwater pipe draining directly into Dry Creek, would like to see a 200' buffer along Dry Creek, voluntary open space, easements over the trail areas by Lots 21 & 22 and Lots 33 & 34, details on the wastewater treatment plan, if the open space or 25' wide buffer along Old Graham Road would be left natural, and if there will be a protective covenant for the trees and require the builders to only clear enough for home site and small garden.

Mr. Robinson provided the details for the wastewater treatment plan. He stated the wastewater will be collected and delivered to and treated at the Chapel Ridge plant. The Chapel Ridge plant is a North Carolina regulated utility plant and has not experienced any difficulty with its collection and treatment of wastewater since it has been in operation. The water is provided by Aqua and there is an agreement that the town of Pittsboro will supply water to Aqua who then supplies water to the residents.

The developer agreed to place a 200' voluntary buffer along Dry Creek excluding the stormwater ponds, agreed to eliminate the drainage pipe into Dry Creek and agreed to eliminate the cul-de-sac by Lots 66-70. It was agreed to change the voluntary open space to voluntary natural space and place an easement over the trail areas by Lots 21 & 22 and Lots 33 & 34. The 25' wide buffer or open space along Old Graham Road will remain natural. Since the developer did not know the location of the pocket of trees within the development, the developer did not agree to the board's request for a protective covenant for trees.

Board members voted unanimously to postpone the proposal to July 6, 2021, meeting.

The developer provided a cover letter and a revised first plat. Per the cover letter dated June 21, 2021, provided by Mr. Zack Fuller, P.E., the following items were revised:

- 20' Greenway easement added along Lots 21 & 22 and Lots 33 and 34
- 3.70 acres voluntary open space renamed to voluntary natural space.
- Road names added to Sheet 1.0 and Sheet 2.0
- R009 cul-de-sac removed.
- Drainage easement at R009 cul-de-sac removed.
- Lots 57-70 revised.
- Cul-de-sac at end of McBane Park Drive (formerly R002) shortened and road shifted north.
- 200' buffer provided behind Lots 61-70 along Dry Creek. A 200' buffer is not provided along Dry Creek where adjacent to SCM #3 and #4
- Grading and drainage along McBane Park Drive (formerly R002) revised
- Southwood Lane (formerly R004) was shortened, and Lots 71-76 revised accordingly.

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 Rural on the Future Land Use and Conservation Plan Map. The description for rural includes single family on large lots or in a conservation subdivision, agriculture, home-based & small-scale businesses, greenway trails, farm buildings, and pastures. Conservation subdivisions are encouraged to protect nature resources

while not disrupting agricultural practices. 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 stated in closing the Planning Department recommends granting approval of the road names Loxley Drive, McBane Park Drive, Wynwood Drive, Southwood Lane, Barclay Lane, Stanton Ct., Galax Ct., Bradfield Ct., and Baywood Ct. and granting approval of subdivision First Plat for **McBane Park** with the following conditions:

1. The following development schedule shall apply: Construction Plan submittal for Phase 1 within 2 years of First Plat approval and Final Plat submittal for Phase 7 (final phase) by March 31, 2032.
 2. Prior to final plat recordation, the county attorney shall review and approve the form of the Management Plan, the Declaration of Covenants and Restrictions, and the deed for the Conservation Space.
 3. Labeling of the "200 ft Dry Creek Buffer" shall be changed on the final plat to "200 ft Dry Creek Natural Space" and shall add a note to the final plat "200 ft Dry Creek Natural Space shall follow the regulations of the 100 ft riparian buffer."
- Mr. Bertoncino stated this is a by right conservation subdivision and we have exceeded some of the requirements at the previous Planning Board meeting. We added 20' greenway easements between lots 21-22 and lots 33-34, changed the name of the 3.7-acre voluntary open space to voluntary natural space, added road names, remove the cul-de-sac and reconfigured the lots, shortened two other cul-de-sacs to help create more stormwater control, and added the 200' buffer along Dry Creek. The only exception to that buffer is that we would be allowed to grade into the outer portion of the 200' buffer to create the stormwater management ponds.

Planning Board discussion:

- Vice-Chair Lucier stated the developer has made the changes that were requested by the board at the last meeting and had worked with the NC Natural Heritage Program to identify the areas of interest to be preserved. They have met all the requests and it is on the map. Vice-Chair Lucier stated he was not excited about the subdivision layout, but that is an issue with the Conservation Subdivision Ordinance in which the developer is working under and hopefully in the near future that can be resolved. Ms. Weakley stated they have updated the map with the changes they agreed to, but not all the requests that were asked by the Planning Board. Chair Spoon stated he agrees with Vice-Chair in that the developer has tried to make efforts to accommodate the boards wishes even when they were within the guidelines of the project.
- Ms. Weakley stated that during the TRC meeting there was discussion about the Dark family owning the property longer than the McBane family and would the developer consider acknowledging the Dark family. Ms. Kirkland stated they would not change the name of the project, but they are open to honoring the Dark family in the natural space.
- Ms. Weakley asked about the phasing plan with 7 phases being developed within 10 years, how is that acknowledged and approved. Ms. Tyson stated the first phase of their construction plan will need to be submitted within 2 years after the First Plat approval and the last phase, phase 7 will be completed by March 31, 2032 and the developer can set their own schedule. Ms. Weakley stated she appreciates going slow so there is not a lot of open ground at one given time, but also a little concerned about the 10-year timeframe given what we have seen with other developments that have long build out periods.

- Ms. Weakley stated she does not agree with the 3rd condition as to what the developer added in red.

“3. Labeling of the “200 ft Dry Creek Buffer” shall be changed on the final plat to “200 ft Dry Creek Natural Space” and shall add a note to the final plat “200 ft Dry Creek Natural Space shall follow the regulations of the 100 ft riparian buffer.” Chatham County shall enforce the requirements of the Chatham County Watershed Protection Ordinance within the inner 100-ft or to the furthest extent of the mapped floodplain, whichever is more restrictive. The McBane Subdivision Home Owners Association shall enforce the same requirements of the Chatham County Watershed Protection Ordinance for the remaining 100-ft of the buffer.

This condition specifically acknowledges that portions of SCM #3 and SCM #4 may be constructed and located within the 200’ Dry Creek Natural Space and are specifically allowed irrespective of the 100’ riparian buffer regulations.”

The condition specifically acknowledges portions of the SCMs 3 and 4 may be constructed and located within the Dry Creek natural space. That is not what the map shows, the map shows the natural space in green and the SCMs in gray which are open space. Mr. Bertoncino stated the green and the gray overlap in a small portion, and it is not intended for the surface area of the stormwater devices to be within that area at all, but when you are building these gravity dependent stormwater structures with the dams and small portions of it will end up within 200’ of Dry Creek. We are happy to work on the language as needed to make it work. Ms. Weakley stated it looks like the ponds are right up against the floodplain and about 2 acres in size. Mr. Bertoncino stated the gray area is over 2 acres, but the surface area in both cases will be less than an acre once that is completed. We are not asking to grade into any areas that are regulated by the current ordinance, the 200’ buffer is above and beyond the ordinance, we are simply asking that the grading which will be revegetated, be allowed in the areas that are otherwise not regulated.

- Ms. Weakley stated what is shown on this map as green is natural area and gray is open space, so the language that was proposed in the condition number 3 says that the ponds can go into natural space and that is the issue, they are not shown currently in natural space. Mr. Robinson stated he believes this is a nomenclature issue. The staff condition states, “labeling of the 200’ Dry Creek buffer shall be changed on the Final Plat to 200’ Dry Creek natural space and shall add a note to the Final Plat 200’ Dry Creek natural space shall follow the regulations of the 100’ riparian buffer.” So, you can understand we are okay with that nomenclature, but we know that a portion of the gray area shown as open space is within what is being asked to be called a 200’ natural space, even though it is shown on the plat right now as open space. We were just concerned that somebody would come back later and say that you have to have a full 200’ from Dry Creek before you can get to the area reserved for SCM. Ms. Weakley understands what Mr. Robinson is saying, but feels this language needs to be adjusted.

- There was some board and developer discussion about the proper language for condition 3.

Mr. Robinson stated, “Labeling of the “200 ft Dry Creek Buffer” shall be changed on the final plat to “200 ft Dry Creek Natural Space” with the exception of construction and location of the SCM 3 and 4 as shown on the first plat and shall add a note to the final plat “200 ft Dry Creek Natural Space shall follow the regulations of the 100 ft riparian buffer.” Chatham County shall enforce the requirements of the Chatham County Watershed Protection Ordinance within the inner 100-ft or to the furthest extent of the mapped floodplain, whichever is more restrictive. The McBane Subdivision Home Owners Association shall enforce the same requirements of the Chatham County Watershed Protection Ordinance for the remaining 100-ft of the buffer.

- This above language was agreed upon by the Planning Board, developers, and Planning staff.
- Ms. Hager asked the developer to speak a little more as to the development of the lots and the protection of trees. Mr. Robinson stated they will clear for the roadways and leave the lots alone and

then the home owner will clear as little as possible for their house. Ms. Weakley stated the notes from the Planning staff says there will be an architectural review board to review all individual sites, is that true. Mr. Robinson stated the design and construction of the house will be reviewed.

- Ms. Cynthia Crossen asked if nonresidents of the development would be allowed to walk in the buffer and natural areas. Mr. Sullivan stated there is no criteria in the subdivision regulations that requires any of those spaces be made available to the public and any enforcement would be through the HOA if they would allow that or not. The roads within the community would be public, but do not grant access to nonresidents to the community. Ms. Crossen stated there is a lot of area that is being preserved and it might be a benefit for neighbors to have access to those trails. Chair Spoon thanked Ms. Crossen for her comments and stated we will be working on the UDO and those are goals we can keep in mind.
- Ms. Siverson stated she appreciated the developer's choice in designing this as a conservation subdivision because it is an improvement than a traditional subdivision. The conservation areas they have chosen are worthy of conservation and appreciate the changes they have been willing to make and went above and beyond. Ms. Siverson stated she does have concerns about cumulative impacts to Dry Creek and there is no doubt that this development will impact the creek. Conservation is an ongoing effort and with this much density there is going to be runoff into the creek and there will be contaminants in that runoff. The hope is that the developer will include some kind of educational component into their promotional material and into their homeowner rules to inform residents to best management practices and also the values of conservation and honor the adjoining residents concerns about light pollution. Ms. Siverson also hopes that the design review process will take preservation of significant trees into account.
- Ms. Weakley stated she agrees with Ms. Siverson, and we do want to incentivize conservation subdivisions in places where they are most appropriate. We do need to fix the guidelines because we repeatedly find fault in some of the guidelines. Ms. Weakley would have liked to see the entire natural area that the NC Natural Heritage Program had delineated conserved as natural space. That is the intent of the conservation subdivision guidelines and that is the primary place a developer should look to preserve, but this does meet the minimum. She would also like to see the stormwater ponds out of the 200' buffer, but that has been covered. She also agrees with educating the residents about the conservation area and the impacts of stormwater on Dry Creek.

Motion made by Ms. Siverson to approve this item, second by Vice-Chair Lucier. Chair Spoon completed a roll call vote and the motion to approve this item passed 9-1, opposed by Mr. Fogleman.

VIII. NEW BUSINESS:

IX. BOARD MEMBERS ITEMS:

Planning Board Well Subcommittee Update - Hunter Glenn gave a quick overview of the Well Subcommittee findings, and his presentation is located on the Well Subcommittee website.

Meeting information - <https://www.chathamcountync.gov/government/departments-programs/planning/planning-board/planning-board-subcommittees/planning-board-well-subcommittee>

Background material - <https://www.chathamcountync.gov/government/departments-programs/planning/planning-board/planning-board-subcommittees/planning-board-well-subcommittee/well-subcommittee-background-reports>

- Mr. Frazier shared the Well Subcommittee recommendations:
 1. That the County partner with the USGS to fund a study to determine the sustainable level of groundwater use in different areas of the county. (We have had a preliminary meeting with officials from the local USGS office and they should have a specific proposal ready for consideration late in the summer.)
 2. That the county utilize the upcoming UDO process to explore the feasibility of creating Conservation/Agricultural subdivisions and/or Agricultural Zoning Districts as recommended by the Comprehensive Plan to ensure that future residential development does not conflict with continued agricultural production.
- Ms. Siverson stated there is a Wake County groundwater assessment that is probably a good model that was completed by the USGS. USGS have the objective of studying and developing county wide assessment of groundwater availability with a goal of creating a comprehensive groundwater budget for the county to use for planning. We came away from this study believing this is something we really need, and it will be expensive. It would not have to be paid for all at one time and there is some cost sharing possibilities with the Federal Government. We hope once we get the plan proposal from USGS in the late summer, early fall, that we can share it with the Planning Board, and we can make a decision if we want to recommend the study to the BOC.
- There was some Board discussion about the USGS study and the fantastic job the Well Subcommittee members did discussing and summarizing their findings with Chatham County groundwater.

Update from the Planning Board liaisons.

- Vice-Chair Lucier stated there was not a July Pittsboro Planning Board meeting yet because of the holiday.
- Ms. Siverson stated there was no input for the Siler City Planning Board. The Agriculture Advisory Board would like a new liaison from the Planning Board. Ms. Siverson stated she would be interested in being the liaison, but she cannot do both Siler City and Ag Board. Chair Spoon asked if there were any board members that would like to be either Siler City or Ag Board liaison. There were no replies and the Chair asked for the members to think about it.
- Ms. Weakley stated the Chatham Conservation Partnership next meeting will be July 15th as a zoom meeting from 9am to 11:30am, presentations by CCP members about updates on projects and other things of interest. October meeting will be about healthy yards.
- Chair Spoon stated himself, Vice-Chair Lucier, Ms. Siverson, and a couple members from ERAC had a side meeting about the conservation subdivision applications we are getting and how some of those projects are going in it with the right state of mind to preserve and make conservation a priority. However, there are also some applications that might be coming through just looking for the density bonus and not making conservation the focus of what they are doing. This group is looking to make some very quick text amendment recommendations to bring before the Planning Board and discuss. We can not rewrite the entire statute, but we are looking at ways to formally incorporate the NC Natural Heritage Program and have their inventory be a mandatory part of the process in a conservation subdivision to ensure we are conserving naturally significant areas and that we are doing the best stewardship we can for the land. This will be moving quickly because we are starting the UDO process, but that will take approximately 2 years and we would like to get these text amendments in the guidelines sooner than that.
- Ms. Weakly asked if this is a subcommittee because she would like to give her input on these text amendments. Chair Spoon stated it is not a subcommittee, they had thought of forming a joint

subcommittee with the Planning Board and ERAC, but the thought was that the process to pulling it all together would take too long before the UDO takes over. These are just stop gap fixes before we fully address the issues in the UDO. Chair Spoon stated he will be sure Ms. Weakly is invited to this process.

X. PLANNING DIRECTOR'S REPORTS:

Mr. Sullivan reported on the following:

1. Minor Subdivision spreadsheet
2. UDO Update
3. In person meeting update
4. Zoning Ordinance Special Study criteria update

XI. ADJOURNMENT:

There being no further business, the meeting adjourned at 8:39 p.m.

Signed: _____ / _____
Jon Spoon, Chair Date

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