



## Chatham County Planning Board Minutes November 2, 2021

The Chatham County Planning Board met in regular session on the above date and the meeting were as follows:

### Present

Jon Spoon, Chair  
Caroline Siverson  
Eric Andrews  
James Fogleman

George Lucier, Vice-Chair  
Clyde Frazier  
Brittany Harrison

### Absent

Allison Weakley  
Jamie Hager  
Bill Arthur  
Alex West

### Planning Department

Jason Sullivan, Director, Kim Tyson, Subdivision Administrator, Angela Plummer, Zoning Administrator, Chance Mullis Planner II, Vance McNeas Zoning Official, Brandon Dawson Planner I, and Dan 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:

### III. DETERMINATION OF QUORUM:

Chair Spoon stated there is a quorum, 7 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 October 5, 2021 Planning board minutes. Motion made by Vice-Chair Lucier to approve the minutes, second by Mr. Andrews. The October 5, 2021 minutes were approved 6-0, Ms. Harrison was having audio issues at this time and could not vote.

### VI. PUBLIC INPUT SESSION:

There were no residents to speak at this time.

### VII. SUBDIVISION:

1. A Request by Mark Ashness on behalf of TBM Partners for subdivision **First Plat** review and approval of **Chapel Oaks Subdivision**, consisting of 31 lots on 76 acres, located off Old Lystra, SR-1724 and Peak View Place SR-1886, parcels numbers 18659, 18661, 61553, and 60646.

Ms. Tyson gave a brief overview from the October 5, 2021 Planning Board meeting and stated A public hearing was held during the October 5, 2021 Planning Board meeting. Mr. Tony Pendola had concerns with septic area on Lot 17 of the proposed subdivision being approximately 100-feet from his well and would the developer be willing to provide landscaping or fencing between his property and the adjacent lots. Mr. Ashness stated the county requires a 50-foot separation between wells and septic systems and the entire septic field area will not be used and the septic repair area may never be used. To address the landscaping and fencing request, Mr. Ashness explained the lots are 240-feet deep, the lots will not be fully cleared, and wooded areas will remain. Mr. Joe Cebina with the development team stated they would be willing to split the cost of fencing with Mr. Pendola. Staff stated that providing a buffer is not a requirement and it would be an agreement between the property owners.

Discussion on this item was postponed to the November 2, 2021 meeting since the discussion started at approximately 11:00 p.m.

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 Neighborhood Center, Compact Residential, and Rural on the Future Land Use and Conservation Plan Map. A small western portion of the project is identified as neighborhood center, a small center portion of the project is identified as compact residential, and the northern portion of the project is identified as rural. The description for neighborhood center includes small-scale retail, office, and service uses. The description for compact residential includes a mix of detached and attached residential units, local and collector streets are connected with access to surrounding development, and open space with small pocket parks and gardens. The description for rural includes single family homes on large lots, low density development, mix use of agriculture, home-based and small-scale businesses, open space, greenway trails, protected lands, and conservation easements.

The proposed subdivision meets the adopted riparian buffer and stormwater control standards of the county. The developer also contacted the NC Natural Heritage Program to review their database for any rare species, important natural communities, natural areas, or conservation/managed areas within the project boundary and no 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 Peak View Place, Twisted Oak Way, and Chapel Oaks Lane and granting approval of subdivision First Plat for **Chapel Oaks 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. The county attorney shall review and approve the contract and performance guarantee prior to final plat recordation.
- Mr. Mark Ashness gave a brief overview of the project and then pointed out an adjoining property owned by Mr. Pendola. After last month's meeting Mr. Ashness went out to the property and did notice there was some open space, and our client is willing to plant some tall trees or something like that in regard to the open space area. Mr. Ashness stated since the last meeting he has had discussions with the Watershed Protection department staff and showed the Planning Board members a plat with different colors to help understand what septic area goes with what lot. There will be a gravel or grass drive that comes down by lot 38 that will cross the buffer and there will be access to the 5 fields as needed. Lot 24 will have its own directional bore under the creek. Mr. Ashness stated there will be three impacts in total, a single bore, a drive crossing with two bores, and two other bores for 20A and 22A that will share a crossing.

#### Planning Board discussion

- Vice-Chair Lucier asked if the two separate bores are two separate pipes and if they are right next to each other. Mr. Ashness stated they will be at least 10 feet apart in those locations because they will be on the lot lines.

- Vice-Chair Lucier asked if there will be an HOA in this subdivision and it will be made clear on the lots with the stream buffer requirements? Mr. Ashness stated yes, there will be a mail kiosk and three stormwater ponds which are in open space on the property and will be managed by the HOA and they will make it clear about the buffer requirements to the home buyers.
- Chair Spoon asked if the septic pipes for lots 15 and 16 will be routed around the boundary of the neighboring lots? Mr. Ashness stated that is correct and there would be landscaping with Mr. Pendola's consent.
- Mr. Andrews stated with off-site septic even though it is contiguous and there will be an HOA, what happens is when the septic area is either far away from the residence or across a stream there is a tendency to forget the maintenance keeping it clear of trees and vegetation to maintain its functionality. Mr. Ashness stated that is important, there is a service access for these locations so they will be able to mow as needed.
- Ms. Siverson asked if they can make the hedge for the neighbor a condition. Mr. Ashness stated he does not think we can do that, but the client has agreed to plant the hedge.

Motion made by Vice-Chair Lucier to approve this item, second by Ms. Siverson. Chair Spoon conducted a roll call vote, and this item was approved 7-0, unanimously.

#### PUBLIC HEARING:

2. Request by Warren Mitchell, P.E. on behalf of Dr. Wyndell Merritt for subdivision **First Plat** review and approval of **Pyewacket**, consisting of 92 lots on 128.39 acres, located off Jones Ferry Road, SR-1942. parcels #90267.

Ms. Tyson stated the request is for First Plat review and recommendation of Pyewacket, consisting of 92 lots on 128.39 acres, located off Jones Ferry Road, S.R. 1942. A vicinity map showing the property location, attachment # 2, is included in the agenda packet. As stated above, the Planning Board has two (2) meeting to act on the proposal.

Section 7.7 of the Subdivision Regulations, Conservation Subdivision – Alternative Standards for Development states in part “As an alternative to conventional layouts, Chatham County encourages the preservation of large, contiguous blocks of land...When a project voluntarily preserves Conservation Space in accordance with this Section, a project can increase the number of units that would be allowed on the overall property by ten (10) percent. Calculations of the density bonus shall be based on the applicable underlying land use regulations(s) dictating allowable development density.” Section 7.7 J. states in part “conservation subdivisions proposed for the purposes of sustaining existing on-site bona fide agricultural operations are entitled to a five (5) percent increase in permitted density (this in addition to the ten (10) percent density bonus)...” Please read the entire Section 7.7, Items A – N for a complete understanding of Conservation Subdivisions. Also, please refer to the Chatham County Conservation Subdivision Guidelines for Conservation Space Selection which is available on the Planning Department webpage under Ordinances and Regulations. A conservation subdivision requires that a minimum of 40% of the project area be retained as Conservation Space. A minimum of 80% of such Conservation Space shall be Natural Space and a maximum of 20% of the Conservation Space may be Open Space.

**Density Calculations:** The land required to be protected within a Conservation Subdivision under other regulatory provisions, i.e., riparian buffers and floodplain, is 1.45 acres. This amount (1.45 acres) was deducted from the total acreage of 128.39 acres to arrive at the net land available consisting of 128.39 acres. Based on the net land area the lot yield would be 138 lots and with the 10% density bonus would increase to 152 lots. The proposed project is 92 lots.

**Conservation Space:** Of the total project area of 128.39 acres, 51.35 acres is required to be in Conservation Space and the site plan indicates that 62.4 acres will be set

aside. See the site plan for the breakdown and location of the Conservation Space. The developer allowed staff from the NC Natural Heritage Program to visit the proposed project prior to designing the subdivision layout. The area set aside for Conservation Space meets the requirement that 40% of the project area be retained as Conservation Space.

**Natural Space:** 80% of the Conservation Space is required to be Natural Space. The Conservation Space Guidelines states “Natural space is unimproved land in its naturally occurring state, or preserved to regenerate to its naturally occurring state, unaltered by human activity, and preserved to maintain or improve the natural, scenic, ecological, cultural, hydrological, or geological values of an area.” The site plan indicates this requirement will be met.

**Open Space:** A maximum of 20% of the Conservation Space may be Open Space, of the 51.35 acres designated as Conservation Space and the site plan indicates this will be met. The ‘Guidelines’ state “Open space, as defined in the Subdivision Ordinance, allows amenities such as recreational uses and some non-intrusive common uses (e.g., when land application is not the preferred means of wastewater disposal, community septic systems are allowed in Open Space areas). Open space should be located as close to proposed development as practicable, taking into account considerations such as public safety and soil suitability.” See Section 7.7 (D), Items 1 – 7 for allowed uses in Open Space related to

Conservation Subdivisions. All land disturbing activities associated with the Conservation Subdivision are subject to the full provisions of the Soil Erosion and Sedimentation Control Ordinance, regardless of the designated use or status of a given area.

**Roadways:** The roads are to be built with a 20-foot-wide travel way with a 60-foot-wide public right-of-way, will be approximately 8,500-feet in length, and are to be state maintained. Project entrance will be in Orange County and per the developer a major subdivision process is not needed in Orange County for the public right-of-way dedication.

**Historical:** The developer corresponded, attachment #3, with Bev Wiggins, Chatham County Historical Association (CCHA). CCHA believed the proposed project was the grave site of William “Billy” Anderson Morgan. The grave of Billy Morgan was not located, and CCHA believes the grave may not be on the proposed project site. North Carolina Department of Natural and Cultural Resources provided a letter dated March 10, 2021, EIA, Appendix C, the stated, “no archaeological resources have been previously recorded within the project area, the stone chimney foundation noted in submission document needs to be recorded as an archaeological site and evaluated for the Nation Register of Historic Places. Given the apparent age of the chimney, there is also a possibility that an unmarked cemetery could be located in the vicinity.” New South Associates provided an archaeological evaluation report dated May 10, 2021. The report stated no grave site of William “Billy” Anderson Morgan was found and the deed and census report believe the grave is located to the west of the proposed project. Artifacts found were iron/steel stove plate, horseshoe, ironstone, etc.

**Schools:** Notification of the proposed development was provided to the Chatham County School System.

**Environmental Impact Assessment:** Due to the number of lots, an Environmental Impact Assessment (EIA) was required to be submitted and peer reviewed. The EIA dated May 11, 2021 and updated July 7, 2021 was prepared Sage Ecological Services and peer reviewed by Johnson, Mirmiran & Thompson, Inc. (JMT). Per the EIA, Appendix D, Dry Basic Oak Hickory Forest, is within the project area. Upland depression swamp forest, *erynnis martialis*, *somatochlora georgina*, dry basic oak – hickory forest, piedmont monadnock forest, *tridens chapmanii*, have been documented in a one-mile radius of the site.

The developer engaged the NC Natural Heritage Program to visit the site and provide a survey report. Justin Robinson, Special Projects Botanist with NC Dept. of Natural and Cultural Resources visited the site and provided a report dated January 8, 2021 (Appendix D of the EIA). The report included that there are records for rare species, important natural communities, natural areas, and/or conservation/managed areas within the proposed project boundary.

In the Conservation Subdivision Guidelines for Conservation Space Selection two maps are required to be submitted, a Fragmentation Map and an On-site Inventory Map. The Fragmentation map illustrates the project site and all land within one mile of its boundaries and is designed to assist the applicant in deciding where Conservation Space should generally be located to create connections with existing Natural Space or allow future Natural Space connections on adjacent properties. The Onsite Inventory Map is used as the “primary decision-making tool for the applicant in selecting specific areas to include in Conservation Space, and the County in issuing approvals. Data required to generate this map should be available on the Chatham County GIS and from on-site investigations. This can include information on existing landcover, proposed natural space preservation locations and acreages, topography, locations of streams, wetland, floodplains, and required buffers, adjacent natural areas, and cultural and historic resources. The developer worked

extensively with Rachael Thorn, Watershed Protection Director. Ms. Thorn provided a letter dated May 11, 2021, that stated the revisions made during the review process modified the layout to better reflect the Chatham County Conservation Subdivision Guidelines and I appreciate the efforts made to address my comments.

**Ownership / Management of Conservation Space:** Section 7.7 (F) of the Subdivision Regulations requires that the applicant identify the current and intended future owners(s) of the Conservation Space and who will be responsible for maintaining the area / facilities. Per the Draft Conservation Management Plan the Natural Space and the Open Space will be maintained by the Pyewacket Conservation Subdivision Homeowners Association. Section 7.7 (G) requires that a management plan for the Conservation Space be submitted to and approved by the County. A copy of the draft plan has been provided by the applicant. Per Section (G) "Upon initial approval of the management plan by the County, changes to the plan shall be allowed only when approved by the County Board of Commissioners." Section (H) requires that the Conservation Space shall be protected in perpetuity by a binding legal document that is recorded with the deed upon review and approval by the County. The applicant has provided a draft copy of the deed which will convey the Conservation Space to the third party (homeowners association) and has included a draft copy of the Declarations of Covenants and Restrictions. 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.

**Trails:** Trails are proposed to be rustic and located within the natural space of the project.

**Community Meeting:** A community meeting was held January 7, 2021 at Briar Chapel Park and virtually. Approximately ten people attended the meeting. Some concerns were if high speed internet will be available, no pedestrian or vehicular access to Emily Lane, wells producing enough water, will the new wells affect the existing wells yield, what will the price point be, if NCDOT will post a lower speed limit. One adjacent property was excited for the new subdivision the subdivision will allow a safer walking area and walking on Jones Ferry Road. The applicant's response included they will continue to request AT&T or Spectrum to bring high speed internet, no plans to connect to Emily Lane, community wells are proposed for project, homes will start in the \$500,000 price range, and will ask NCDOT to review the speed limit but no reduction is expected.

**Technical Review Committee:** The TRC met virtually on October 13, 2021 to review the First Plat submittal and the applicant, Warren Mitchell, was present. Items discussed included how the subdivision name was chosen, consider naming the trail or amenities after the Atwater family since the family owned the property for years, consecutive lot numbers, total stream calculation, label the stream features, street lighting, and HOA owning the septic area for the community septic.

**Septic:** On-site and community septic are proposed for the project. Carl Kivett, REHS, LSS, Registered Chatham County Environmental Health Specialist, reviewed the soils report. Mr. Kivett stated in an email correspondence dated August 31, 2021, the soils report meets the requirements at this time. Thirty-one lots are proposed for community septic. Section OS-1 will serve lots 72, 73, 88, 89, 90; Section OS-2 will serve lots 76, 77, 81, 82, 85, 86; Section OS-3 will serve lots 7, 8, 9; Section OS-4 will serve lots 11, 12, 13, 14; Section OS-5 will serve lots 12, 67, 68, 69, 70, 71; and Section OS-6 will serve lots 23, 28, 29, 30, 31, 32, 58.

**Water:** Community wells are proposed. The developer had a hydrogeologic evaluation report completed by Groundwater Management Associates, Inc. (GMA). GMA provided a letter dated April 9, 2021, the report states there are three potential well sites.

**Road Name:** The road names Pyewacket Trail, Mathilda Place, Clementine Way, Maribelle Court, Wynona Place, Tabitha Way, Clarabelle Court, and Emma Court have been approved by Chatham County Emergency Operations Office as acceptable for submittal to the Board of Commissioners for approval.

**Water Features:** Steven Ball with Soil & Environmental Consultants submitted the Riparian Buffer Review Application and riparian buffer map, to Drew Blake, Senior Watershed Specialist for review. Mr. James Lastinger of the US Army Corps of Engineers completed an on-site determination on April 14, 2021, to verify wetlands. Mr. Blake and Mr. Kevin Murphy with Soil & Environmental Consultants visited the site March 22, 2021. Mr. Blake confirmation letter dated June 21, 2021, stated six (6) intermittent streams, seven (7) perennial streams, and fourteen (14) wetlands were identified. The six (6) intermittent streams require 50-ft buffers, the seven (7) perennial streams require 100-ft buffers, and the fourteen (14) wetlands require 50-ft buffers from all sides landward. (Attachment# 8)

**Development Schedule:** Per the Subdivision Regulations Section 5.2C(6), the first phase of phased subdivision must submit Construction Plans within two (2) years of approval of First Plat. Four phases are proposed for the project. Phase

1: 27 lots; Phase 2: 29 lots; Phase 3: 18 lots and Phase 4: 18 lots. Phase 1 Construction Plans within two (2) years of approval of First Plat and Final Plat by December 31, 2023; Phase 2: 29 lots Final Plat by December 31, 2027; Phase 3: 18 lots by December 31, 2030, and Phase 4: 18 lots December 2034.

**Stormwater and Erosion Control:** Six stormwater devices are proposed. 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 October 20, 2021 for Planning Department staff, and various Board members to attend. Warren Mitchell, P.E. was present to walk the property with staff and Board members and discuss the project. Areas viewed included wetlands, perennial streams, intermittent streams, septic areas, old chimney, and proposed conservation spaces. Pictures of the site visit can be viewed on the Planning Department webpage at [www.chathamcountync.gov/planning](http://www.chathamcountync.gov/planning), Rezoning and Subdivision Cases, 2021. Questions raised during the site visit include will the chimney remain on the property and will the acres within Orange County boundaries count as conservation space totals for the project. Staff explained the acres within Orange County will not count as conservation space in Chatham County. The project total acres are 139.63 with 11.24 acres in Orange County. Mr. Mitchell stated the old chimney will remain on the property.

**How does this relate to the Comprehensive Plan:**

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 and attached units with overall very low density, passive recreation areas, and greenway trails. 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 Pyewacket Trail, Mathilda Place, Clementine Way, Maribelle Court, Wynona Place, Tabitha Way, Clarabelle Court, and Emma Court and granting approval of subdivision First Plat for **Pyewacket Subdivision** with the following conditions:

1. The following development schedule shall apply: Construction Plan submittal for Phase 1: 27 lots within 2 years of First Plat approval with Final Plat by December 31, 2023, Phase 2: 29 lots Final Plat by December 31, 2027, Phase 3: 18 lots Final Plat by December 31, 2030 and Phase 3: 18 lots by December 31, 2034.
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. The county attorney shall review and approve the contract and performance guarantee prior to final plat recordation.
4. Final Plat shall provide the labeling of the riparian buffers
5. Final Plat shall provide a note, "No building activities or land disturbance within the riparian buffer/wetland areas on lots 9,12,13, 3272, 73,82, & 83"
6. Final Plat shall provide lots numbers in the community septic areas.
7. A copy of the approved declaration for the Orange County portion of the Right-of-Way needs to be provided to the Planning staff.

- Mr. Warren Mitchell gave an overview of the project and stated this is a conservation subdivision with 11 acres in Orange County. The entrance road to the subdivision is off of Jones Ferry road and the only impact on the project is the wetland near the entrance. Mr. Mitchell stated there is a 50' gas easement that runs through the middle of the project and on the plat the beige color is open space, and the green color is natural space. The NC Natural Heritage Program identified all the primary natural communities on the property. Mr. Mitchell stated there have been several plans since he started and made adjustments with Ms. Rachael Thorn from the Watershed Protection department as needed for the best conservation subdivision plan. The down side to getting 78% of natural space some of the septic areas are located in the natural area. Mr. Mitchell showed the board members the different plans and how they changed. We are going to have community wells and we are required to have at least two wells and there may be a third and Mr. Mitchell pointed out the locations that were identified. Mr. Mitchell showed the board members the on-site inventory maps and identified the natural areas and showed the different plans showing the septic fields outside the natural area, but with less designated natural areas and a plan with septic inside the natural area. Mr. Mitchell also showed the members that this project has natural space connecting to the natural space with Morgan Ridge Phase 2. If you were to count both counties there is 51% conservation area and if you just look at Chatham there is 48% conservation area, and the requirement is 40% and there are no stream or stream buffer impacts on the project.

#### PUBLIC INPUT:

- Mr. Jim Baca stated his house is located in the corner between Orange and Chatham counties. My house and neighbors will be impacted because of how close they will be to the entrance road. I get a lot of noise from Jones Ferry road on the front side of my house and the back side is peaceful and quiet, that would be taken away if this proposed road goes through. There would be traffic on both sides of my house, and not only will there be the sound, but during the winter as the tree line thins, we will get glare from headlights. This Orange County portion of the project is not going before the Orange County Planning Board and will not require an approval from them. There is supposed to be 900 car trips per day which is a lot of traffic, and I am asking that this plat map be redrafted, so the Pyewacket phase is completely within Chatham county and not have a road in Orange county at all. There is also a lot of concern about water consumption, Wake county never had a well interference ordinance until a subdivision caused a problem for the neighboring wells and after that happened, they adopted the ordinance. Unfortunately, neither Orange or Chatham has such an ordinance to protect homeowners and asked the board members what would happen if these community wells cause problems for other homes nearby. In summary, I am asking the Planning Board to protect all existing homeowners during the process in reviewing the Pyewacket subdivision, Mr. Baca thanked the board.
- Mr. Justin Kosak stated he also lives in the same 5 home cul-de-sac as Mr. Baca and is speaking in opposition to this project in its current form based on three concerns. First is standard of living concerns, we moved here for the space, low density of housing, and relative quiet. We moved out of the city of Raleigh, Briar Chapel, and Chapel Hill respectively four years ago. I am concerned that increasing the density of housing in this area will lead to increase commute times, noise, light pollution, and decreased property value. We obviously want our home which is our major investment to remain a peaceful and beautiful environment. My second concern is infrastructure, we have one, two lane road to service this community, Jones Ferry road, can this road handle this increase in traffic, will the road be widened to allow for a turn lane for the increased traffic? Will this project impact my individual well? I know ground water amounts are a concern in this part of the county and also concerned about sewage odors with a community septic field. We have friends living in Briar Chapel that are currently dealing with this issue. Finally, I am concerned with the impact on wildlife, there's not a day I come home on Jones Ferry and not see animals that have been hit by cars or live animals trying to cross the road.

Where will the wildlife that is currently living in this phase go? Is this an appropriate spot to build a community of this size? Mr. Kosak thanked the board.

- Mr. Chance Mullis read a comment from the public and stated the Pyewacket development is on Jones Ferry road, is there a reason it cannot connect to the existing community and exit through that community? Can they at least shift the entrance, so it is not directly across from my driveway?
- Ms. Gaylia Harry stated she is an Orange county resident across the road from the subdivision. She reviewed the prior proposal, and the proposed plan now has removed a clubhouse but added significant number of houses. She has concern for ground water supply. We have had residents in Turkey Run subdivision who had to redrill wells during drought. Ms. Harry has concern with the drain on water supply and at that time I requested if the HOA would not allow for individual swimming pools. What is the environmental damage to clearing wooded area with these small lot sizes and number of houses, maybe consider larger lots keeping trees and higher quality houses for profit.
- Ms. Andrea Sordean-Mintzer stated her property is across Jones Ferry road and adjacent to the gas line. She said on the Cardinal Pipeline Company brochure it stated no public or private roads should be crossing the pipeline easement. Ms. Sordean-Mintzer called Cardinal Pipeline and spoke to a representative and he said that in a case like this they will allow some roadways crossing the easement under certain conditions and they will do an engineering analysis for the stability of the land, the environmental impact, and the equipment load during construction. She asked if plans have been submitted to Cardinal Pipeline for review? Mr. Mitchell stated he has spoken to Cardinal Pipeline and the documents they sent me require the roads to cross perpendicular and that is why the road is shaped the way it is in Orange County. Mr. Elliot Sordean-Mintzer stated there are now homes located in the area that was going to be a pool and clubhouse, is that now off the table? Mr. Mitchell stated yes, that was removed to increase the natural space.

#### Planning Board discussion

- Mr. Andrews asked if the community wells will have holding tanks. Mr. Mitchell stated yes, they will have one or two 5000 gallon holding tanks per community well. There is a detailed process with a 24-hour test to prove you have enough supplied water to support the project. Regarding the neighbors' wells, it is a terrible thing when you buy a house and the builder did not drill the well deep enough, there are a lot of reasons why a well is not adequate, but that does not mean there is not enough source. Vice-Chair Lucier asked how much water this project will use because it will have to pull 10 gallons per minute for 24 hours. Mr. Mitchell stated yes, that is why we have three community wells identified to supply enough water and if needed we could have up to eight wells. It has been discussed as an option to do 92 individual wells; it does not need to be a community well. The community wells have pumps that can pull 100 gallons per minute so it will be able to provide for the lots and the tanks will be located near the wells in an area that is convenient for maintenance.
- Ms. Siverson asked if during the 24-hour pump test will they monitor the neighbors' wells to see if they drop during that time? Mr. Mitchell stated that is not required but will add enough wells so there is multiple sources to pull from. The last thing we want to do is impact the neighboring wells. Ms. Siverson stated she chaired the well sub-committee and we looked at this issue a lot and she started out thinking community wells were not the best thing, but at the end of that committee she came to the conclusion that community wells were not a bad thing in this kind of situation, but there should be some way to make sure when there is a pump test neighboring wells are monitored. It is not required in Chatham or by the State, but some counties require wells be monitored within 1000' of a community well during a pump test. Mr. Mitchell stated that is a good idea for the community well that is located closer to the existing homes, and this is a great suggestion and will see that it is done. Ms. Siverson stated that would make her feel more comfortable with that well in particular.



- Chair Spoon asked where they are in the process with Orange county and NCDOT with getting access to Jones Ferry road? Mr. Mitchell stated Orange county wanted us to go through the major subdivision process and submitted a preliminary plat, but they determined that was not required. Before that the Planning Board had two comments, move the road further south and they asked if the 4<sup>th</sup> community well could be removed from the Orange county portion of the project. Mr. Mitchell stated Jones Ferry traffic is very low at about 2200 cars and would not be a problem until it were to reach about 10,000 cars, five times the traffic would be near a failing situation and that came from a traffic consultant. NCDOT will look through the first phase of the project and as we develop, they may require a turn lane into the project. Chair Spoon asked why the four phases are so spread out? Mr. Mitchell stated he cannot predict the future and the economy.
- Vice-Chair Lucier stated he does not like septic areas located within natural areas. Mr. Mitchell stated he does not like it either, but the primary focus was to get the primary areas up in the natural space and the last plan was of 2/3 of primary with no septic fields within natural space. The goal is to get this conservation subdivision right and to discuss options. Vice-Chair Lucier asked if you were to take out the off-site septic and call it open space, how much natural area would you have then? Mr. Mitchell stated he does not know. The previous plan that was drawn before this current plan was shown to the board and Mr. Mitchell discussed the differences and options. Mr. Frazier asked what is on the land now and what will be on the land after the septic fields are installed. Mr. Mitchell stated mature hardwoods and half of the area will not be touched because it is the repair fields that may never be used, and the remaining area will be thinned out trees. Vice-Chair Lucier stated you cannot help but damage some of the trees when installing the septic systems. Ms. Siverson stated there are two different scenarios, one we have space preserved without residences on it, but have septic fields. In the other scenario there will be homes there instead where the good soils are located. Mr. Mitchell stated that is correct and he has worked on this project for 11 months and would like to get it right.
- Vice-Chair Lucier stated he would like to review this further and get the details right. There was some board discussion about tabling this item until next month.
- Mr. Andrews stated the access to the neighborhood is in Orange county and will Chatham county emergency services be able to use that access? Mr. Mitchell stated fire trucks do not have boundaries. Mr. Andrews stated this is 92 lots with potential of 300 people for one road access, what are the requirements for interconnectivity? Ms. Tyson stated we do recommend connectivity between subdivisions especially when there is landlock pieces of the property, but in this case, connectivity would cut into the conservation space.
- Chair Spoon asked the board how they feel about tabling this item and look at the differences between the plan variations. Ms. Siverson stated she would like to take a month and get a copy of the third plan that Mr. Mitchell showed us tonight.

Motion made by Ms. Siverson to table this item until the December 7th meeting, second by Mr. Andrews. Chair Spoon conducted a roll call vote, and this item was tabled with a vote of 7-0, unanimously.

## VIII. TEXT AMENDMENTS:

1. A legislative public hearing for a request by the Chatham County Board of Commissioners to consider amendments to the Chatham County Subdivision Regulations; specifically, Sections 1.13, Variances; 2.3, Meaning of Specific Words and Terms; 6.4, Final Plat, subsection B, Features; 5.2B Concept Plan; and 7.7 Conservation Subdivision – Alternative Standards for Development; and to the Chatham County Conservation Subdivision Guidelines for Conservation Space Selection to include an appeals process of staff decisions, remove the option allowing off-site septic systems for subdivision lots, require environmental impact assessments be reviewed by the Environmental Review Advisory Committee, and revise conservation subdivision development standards and guidelines.

Mr. Sullivan stated there was a six-year gap between adoption of the conservation subdivision option and approval of the first subdivisions under this provision in 2014 and it has been used more frequently since then. As a result of the increased use of this option, the Planning Board and Environmental Review Advisory Committee have identified sections of the regulations they think need to be amended. Staff has also identified parts of the standards that need to be re-evaluated and those are specifically focused on the procedure for preparing the fragmentation and on-site inventory maps and that these maps are prepared and approved prior to site plan layout.

The following is a brief overview of the proposed amendments:

### **Subdivision Regulations**

- Section 1.13, Variances and Appeals: technical correction to add an appeal process for applicants.
- Section 2.3, Meaning of Specific Words and Terms: amend the definition for Lot Area (Useable) to remove “non-contiguous area” from the useable portion of a new subdivision lot. This is intended to prohibit off-site septic systems.
- Section 5.2(B)(1), Concept Plan: additional clarification to distinguish between conventional and conservation subdivisions.
- Section 5.2(C)(2)(b) Environmental Impact Assessment Review Process: Include the Environmental Review Advisory Committee in the review process for environmental impact assessments, in addition to the third-party peer review requirement.
- Section 7.7 Conservation Subdivision – Alternative Standards for Development: Clarify that the conservation space must be identified and On-Site Inventory and Fragmentation Maps must be prepared and approved before the applicant starts to design the subdivision layout; prohibit riparian buffers and floodplain from counting towards the 40% conservation space set aside; modify what is allowed or prohibited in conservation space; eliminate the agricultural preservation 5% density bonus; and add a 50’ perimeter buffer to the entire project boundary.

### **Conservation Subdivision Guidelines for Conservation Space Selection**

- Include detailed steps for identifying conservation space, on-site and fragmentation map preparation and approval, site design, and submission requirements; clarify that the NC Natural Heritage Program must conduct a field survey to determine if any natural heritage program priority areas are contained within the site; and update conservation space criteria.

The Environmental Review Advisory Committee reviewed the proposed amendments during their regular meeting on August 12, 2021, and the Planning Board on September 7, 2021. The amendments are generally divided into 4 categories: appeals, lot area (prohibit off-site septic), environmental impact assessment review, and conservation subdivision option.

### **Appeals:**

This is a staff recommended change and is considered a technical amendment to clarify that customers have a right to appeal staff interpretations or decisions.

### **Lot Area (prohibit off-site septic systems):**

Amendments to several sections of the Subdivision Regulations to prohibit off-site septic systems. The Planning Board and Commissioners have had discussions about off-site septic systems that been on identified on several major subdivision applications. Concerns that have been expressed are the property owner may not be aware of the location of their septic system, multiple force mains being installed in the same trench and concern about these lines being cut due to the installation of other utilities, etc., large areas of the development being used for multiple septic systems and who is maintaining those areas and keeping track of their location; proximity of large septic areas adjacent to riparian buffers; and multiple sewer lines crossing riparian buffers for installation and maintenance.

Several Commissioners commented that there's a trade-off that must be considered between prohibiting off-site septic systems and whether developers might choose to avoid conservation subdivision or other innovative layouts. There was also a request for the Planning Board to provide the specific concerns about off-site septic systems. Staff is also evaluating whether off-site septic systems can be prohibited in conventional subdivision layouts but continue to be allowed in minor and conservation subdivisions.

### **Conservation Subdivision Option:**

There are several amendments proposed to the conservation subdivision process in the Subdivision Regulations and Conservation Subdivision Guidelines for Conservation Space Selection. The amendments include:

- Outlining specific steps for preparing the on-site inventory and fragmentation maps prior to designing the site and having those maps approved by the Watershed Protection Director.
- Remove floodplain and riparian buffers as being eligible to count as part of the required conservation space.
- Removing the allowance to reduce the 80% requirement for Natural Space.
- Removing silvicultural activities from conservation space, clarify that stormwater management is only allowed in open space, remove off-site septic systems from conservation space, and adding community gardens as an option in open space.
- Remove the 5% density bonus for on-going farm activities. The activity can continue, but there is no density bonus.
- Add a 50' buffer around the project boundary and allow for the area to count towards the density bonus calculation.

Public comment included that more flexibility and incentives for density bonuses should be evaluated and encouraged; that traditional zoning with 1-acre minimum lots is not inclusionary; and that other jurisdictions in the nation are grappling with this issue to expand the variety of housing options. The County Attorney is also reviewing the amendments and any comments will be provided by the Planning Board meeting. Mr. Sullivan stated in closing, discuss the amendments, and provide a recommendation to the Board of Commissioners.

### **Planning Board discussion**

- Chair Spoon stated we have received a memorandum from the County Attorney as well as some feedback from the commissioners. The County Attorney memo addresses some of the text amendments, first of which the recommendation to add the Environmental Review Advisory Committee (ERAC) as part of the review process for conservation subdivisions as they are our environmental review committee. The County Attorney stated that could be potentially problematic and we would need to be specific with the timing when they would get the applications and review them and second, be clear that they are an advisory board and they do not make the final decisions. He did feel nervous about projects being discouraged based on ERAC decisions because it is the purview of the Planning Board and the Commissioners. The County Attorney also addressed the question whether or not we could prohibit off-site septic and, on that point, we could put prohibitions or limitations on the usage of off-site septic. Municipalities are not allowed to do that, they are preempted through State law, but County governments it is clear we are allowed to use some limitations or prohibitions and that would make sense in a conservation subdivision. Chair Spoon stated Commissioner Dasher and Commissioner Crawford both were curious what issues we saw with off-site septic and why that could be problematic and why we would want to limit that in the first place.
- Vice-Chair Lucier stated regarding the timing the ERAC review of the Environmental Impact Assessment (EIA), it might make more sense for ERAC to do that as a first step. Once the EIA is prepared by the developer, have ERAC look at it and point out things in their perspective that the peer review would then look at it. That will address the County Attorney's concern as well. Chair Spoon agrees and Mr. Ashness stated the same thing during the public hearing that the timing would make more sense for the peer review to have the notes from ERAC so they can make sure they address their concerns or comments into the peer review.
- Vice-Chair Lucier stated he is rethinking the off-site septic text amendments whether or not that is something we should ban from the conservation subdivisions, because the idea of a conservation subdivision is to group the houses together with smaller lots and if they need to have a water source as well as septic on site, it may defeat the purpose. Septic areas should not be located in the natural

areas, but the off-site septic might be a necessity for a developer to consider a conservation subdivision. Ms. Siverson stated she agrees, and they should not be allowed in the natural areas because in her experience she has seen trees die in the septic areas. Ms. Siverson stated she would be okay to allow septic areas in open space, but not in natural space. Mr. Andrews stated in his line of work he has found off-site septic areas a huge issue because people do not know where their off-site septic is even located to maintain it and septic areas should not be in a natural area. Mr. Andrews stated he is worried if we do have a no off-site septic policy, we might hurt ourselves because if we are trying to incentivize a conservation area to protect and preserve, an off-site septic might be the best way to get what we want. Chair Spoon stated if we were to prohibit off-site septic specifically for conservation subdivisions it could disincentivize developers from using the model all together, they may choose not to undertake a conservation subdivision. Chair Spoon stated he agrees with keeping the off-site septic areas out of the natural areas, but it could be problematic if we prohibit off-site septic all together.

- Mr. Andrews stated the developers are so concerned about it being called an off-site septic they create these strange lot layouts just so they are contiguous. We are more interested in preserving the streams and would rather have one stream crossing with multiple septic pipes rather than multiple stream crossings. Chair Spoon stated it sounds like we are supportive of recommending some of the text amendments to the conservation subdivision regulations, but we did want to slightly adapt some off-site septic language. Mr. Sullivan pulled up the regulation language on the screen and asked the board if they wanted to go back to the original language or a blended approach? If we revert to the original language, it will allow off-site septic in all the scenarios or as the County Attorney had mentioned in the memo, we can prohibit off-site septic in certain situations between conventional and conservation and minor subdivisions. Vice-chair Lucier stated he is afraid we will see what we saw with Chapel Oaks with all the strange shaped lots. Mr. Frazier stated he does not think we are better off with the strange shaped lots than we are with off-site septic. Chair Spoon stated he is in favor of putting it back in as a possibility for all scenarios. Chair Spoon wants the board members that are not here tonight to have an opportunity to weigh in on this, we could create a memo with our discussions of off-site septic for the BOC and let them make the decision if they want to allow it or do away with it all together. The Chair is not in favor of a blended approach because whatever model does not allow off-site septic might just end up destroying that model. We want conservation subdivisions to be successful because they do conserve great pieces of property in Chatham county, and we should keep the options open for allowing those to be successful.
- Chair Spoon asked if there were any issues with what was discussed about the off-site septic and the timing for the ERAC to review the EIA before the peer review. Mr. Sullivan stated he was okay with the sequence for ERAC.
- Mr. Frazier stated he has one more concern before we make a motion. In the conservation space requirements, the exclusion of land required to be protected under other regulatory provisions, such as riparian buffers and flood plains are not permitted to be included in the conservation space calculations. Mr. Frazier stated he understands the reasons for that, he has two concerns. One, this really puts the conservation subdivision in a very different situation than a compact community. Compact communities can count buffers, flood plains, and they can count the perimeter buffer as natural space, and they get to double the density, conservation subdivisions only get 10% density, and we are not allowing them to count the things that are required to be protected for other reasons. That does not make sense. Second issue, look at the Vickers Village, a big piece of that project of the natural space was the stream buffer and they preserved a really pretty piece of land, but if that could not be counted, they would have likely cut it up into lots. Mr. Frazier is not sure we should take it out and also wondering if we should have 50% of land protected for other reasons.

Chair Spoon stated one important distinction is compact communities are only allowed within the CCO map and conservation subdivisions are allowable anywhere in the county, so they do not get the same

benefits as compact communities because they can only go into that one area on the map. Chair Spoon stated this is one of the more important changes. Vice-Chair Lucier agrees, and that single change will take away a lot of the concerns we have had with some of the conservation subdivisions applications we have seen recently. Ms. Siverson stated we have different priorities between a conservation subdivision where we are trying to preserve prime natural areas and a compact community. Mr. Frazier stated he understands the concern with double dipping and shares that concern, but the concern is if they are not allowed to count that as natural areas the developers will just cut the property up into lots in a conventional subdivision and end up with less protected area.

Ms. Siverson stated there are a lot of incentives to doing a conservation subdivision that might be less obvious such as lower spending on developing a site, with less roads and less infrastructure needed. We also have conservation areas on the Land Use Plan that strongly encourages the developers to consider our conservation subdivision. It will still work, and people will still use this model. Chair Spoon agrees and we are trying to avoid the types of developments we are denying from applying. Mr. Andrews stated we want to incentivize the conservation subdivision concept and the conservation area itself is a marketable amenity.

Motion made by Vice-Chair Lucier to approve all the text amendments and the following changes, 1) change Section 5.2 C(2)(b) to move the Environmental Review Advisory Committee review before the environmental impact assessment is submitted to the peer review consultant instead of after the peer review is complete, 2) delete amendments to prohibit off-site septic systems except within natural areas in conservation subdivisions, and 3) Section 7.7 (A) delete the following wording “and must be deducted from the gross acreage”. Motion was second by Ms. Siverson. Chair Spoon conducted a roll call vote and the text amendments passed 7-0, unanimously.

- Mr. Frazier stated he would like to propose another amendment on the section with the conservation space requirement and have that be 50% of land to be protected. Chair Spoon stated there was already a motion and a second with a vote to approve the text amendments. Mr. Frazier asked was that to approve the amendments and the changes at the same time. Chair Spoon stated yes, it was an approval with the amendments we had spoken about, and the item is closed.

## IX. HERNDON FARMS ZONING AND SUBDIVISION:

1. A legislative public hearing for a Conditional District Compact Community rezoning request by Herndon Farms One, LLC for an active-adult (55 and older) compact community with 161 residential units, congregate care facility, one-story office/daycare, community gardens, and barn for events on approximately 97.86 (previously 96.86 acres) acres being Parcels 93852, 2752, 18750, 18897, 18896, and 18909, located on US 15-501 N split by Williams and Baldwin townships.

Mr. Sullivan stated a public hearing was held on June 21, 2021, several issues discussed, and the applicant was requested to review those items and be prepared to provide the Board with revisions to the application. The Board of Commissioners continued the public hearing to allow the applicant time to make corrections, modifications, and clarify various aspects of the design. A second public hearing was held during the September 20, 2021 Commissioners meeting. One change that has occurred since the June 21 meeting is withdrawal of the General Use Light Industrial rezoning application to rezone one acre that is to be located on Parcel 2752 for a wastewater treatment plant that was intended to serve areas outside the development. That parcel is located on the opposite side of US 15-501 from the proposed housing portion of the compact community. The applicant withdrew that request and absorbed that parcel into the conditional district compact community rezoning application so that wastewater system service will be limited to the Herndon Farms Compact Community.

Application details - Current zoning: R1, Residential. Proposed zoning: Conditional District Compact Community 55 and older. Water: Chatham County. Sewer: Private wastewater treatment system with spray and drip irrigation. Acreage: approximately 97.86 acres. Proposed dwelling units: 161. Proposed non-residential square footage: 150,000 square feet (10,000 sq. ft. daycare and 140,000 sq. ft. congregate care facility), as well as a 2300 sq. ft. office/community center, a small barn, and a covered pavilion community event space.

**WAIVER NO. 1:** Section 12.1 – Performance Standards – Commercial Component – applicant requests to not be limited to the 10,000 sq. ft. maximum in order to construct the 140,000 congregate care facility.

To consider a rezoning to Conditional District Compact Community the standards and requirements for the Zoning Ordinance and Compact Communities Ordinance must be met. Additionally, the rezoning application should include support from the goals, guiding principles, and strategies of Plan Chatham.

The applicant met with the Chatham County Appearance Commission on July 24, 2019. There were concerns about the eastern portion of the property stating one plan showed an undisturbed buffer and another showed grading lines in the buffer zone. It was agreed upon by the commission and the applicant to terrace a portion leaving a 25-foot natural area, install a 6-foot retaining wall and plant the remaining 25 feet to provide adequate screening. There was also concern about leaving the existing vegetation along US 15 501. The applicant stated it is a priority to leave existing vegetation in the buffer zone and it would be noted on the plan revision to reflect this change. The commission approved the overall plant list and plans with the revisions noted. There are three waivers relating to buffers:

**WAIVER NO. 2:** Section 9.3 – Viewshed Buffer – the applicant requests a 50% reduction for approximately 200 feet along US 15-501 adjacent to the residential section of the project. The buffer in front of the commercial area is to remain at 100 feet.

**WAIVER NO 3:** Section 9.2 – Perimeter Buffer – the applicant requests a 50% reduction around the entire community except for the area noted as Side E on Exhibit W.3.B which is proposed to be zero as allowed by the CCO Section 9.2.

There has been opposition by adjacent landowners adjoining Side A, B, and D requesting the 100-foot buffer be required to remain. If the 100' buffer remains, the applicant will be required to resubmit a new site plan and configuration for the project for the rezoning and the subdivision submittal.

**WAIVER NO. 4:** Section 9.3 – Viewshed Buffer – the applicant requests authorization to impact the viewshed buffer for required utility crossing which will involve the removal of existing vegetation and some grading for those lines.

A community meeting was held March 7, 2019. Approximately 26 citizens attended, several concerns were addressed, and changes made prior to the application being submitted. Those questions and comments can be reviewed in the application Exhibit K. There are two main issues that residents in the community have expressed and those are concerns about the reduction in the perimeter buffer along Sides A, B, and C and the wastewater treatment plant on the east side of US 15-501 with access off Oak Island Road.

Property may be rezoned to a conditional zoning district only in response to and consistent with an application submitted in compliance with Section 5 of the Chatham County Zoning Ordinance. The findings are as follows:

- 1. The alleged error in this Ordinance, if any, which would be remedied by the proposed amendment with a detailed explanation of such error in the Ordinance and detailed reason how the proposed amendment will correct the same.** The applicant is claiming no error in the Ordinance. The proposed use of Compact Community is allowed under Section 10.11 of the zoning ordinance. Additionally, the property is located within the Compact Community Ordinance boundary allowing for compact community rezoning applications to be submitted. **Planning staff thinks this standard has been supported.**
- 2. The changed or changing conditions, if any, of the area or in the County generally, which make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare.** In November 2017, the Board of Commissioners adopted Plan Chatham. This plan provides a road map to guide development to areas best suited for various types and mixes of uses. A Market Analysis was provided as Exhibit C. The report specifically cites Recommendation 10, pg. 91 of the Comprehensive Land Use Plan, HL Policy 16, Strategy 16.1 to 16.5 which encourages the development of housing and services for the aging

population, specifically the 55 and older. The community will consist of independent single family living units, townhomes, duplexes, and units within the congregate care facility.

The proposed community will yield approximately 49 full time jobs within the commercial area and is expected to increase the real property tax base by about \$78.2 million. A Fiscal Impact Analysis was conducted and can be reviewed under Exhibit D.

The community will offer an “aging-in-place” atmosphere where active adults can own their homes, participate in community gardens and events, as well as transition into other assisted care as needed.

This community is stated to provide affordable housing to active adults. The applicant has chosen the payment in lieu option of \$500/per 161 units = \$80,500. The CCO states that a minimum of 5% of the housing shall be dedicated to the affordable housing component. This would be eight (8) units of which the applicant is only providing approximately \$10,000 for each required affordable dwelling unit. This is significantly less than prior compact community developers have contributed. The applicant does state however, they intend to also offer 19 townhome units at a lower price point than other residential units in the community.

**Planning staff recommends further discussion about the affordable housing component before proceeding.**

- 3. The manner in which the proposed amendment will carry out the intent and purpose of any adopted plans or part thereof.** The county’s comprehensive plan, Plan Chatham, was adopted in November 2017. A future land use and conservation map was also included, and it identifies areas of the county where more intensive development may be supported under certain circumstances. This proposal is located within the area noted for mixed use and compact communities as shown on the map included in the Introduction & Background and as part of Recommendation 02, Strategy 5.2, Pg. 66, Compact Communities.

In Plan Chatham, Pg. 41, Goals and Objectives, lists several development objectives. The applicant has addressed these in the application materials. A few noted here are:

- Objective #1: Preserving the rural character - by incorporating a community farm, community gardens, and a Koi Pond that the development will center around. The farm is anticipated to produce food and materials (eggs, honey, goat milk) to be used by the residents. The commercial area has remained outside of the 100 foot viewshed buffer which aids in keeping with the rural character.
- Objective #5 and #6: Conserve Natural Resources – the WWTP system will generate Type 2 effluent clean enough to be used for irrigation, some food crops and in water features proposed for the development. By concentrating the development to one side of the total property area, close to 40 acres of the site will remain in open space, largely undisturbed, and working to connect trails to other developments. The proposed daycare can also benefit from the recreation on the farm.
- Objective #7 – provide infrastructure to support desired development and support economic and environmental objectives. With the compactness of the development, low impervious surface, and large open spaces creates more environmental efficiency. By meeting the EPA’s Water Sense program, the project will achieve a more than 50% reduction of water and wastewater design loads.

**Planning staff thinks this standard has been supported.**

- 4. The requested amendment is either essential or desirable for the public convenience or welfare.**

An environmental impact assessment was provided, and peer reviewed by Johnson, Mirmiran & Thompson, Inc. There are some stream features and wetlands that require buffering and have been identified on the site plan. There is an area to the rear of Parcel 2752, labeled Bennett Mountain SMHA, that is to remain forested and become part of a trail system and open area. The only structure for this parcel will be the wastewater treatment plant (to be operated by Aqua America) and is to be located on the highway side of the parcel. The applicant states the plant is to serve this development only.

A Traffic Impact Analysis was performed by Kimley-Horn and peer reviewed by Gannett Fleming. Minor improvements to US 15-501 will be required for the entries into the community. This will go through the NCDOT review and approval process. Two entries off US 15-501 N are proposed. One at the commercial area and one into the residential area. This is supported by Land Use Policy 6, Strategy 6.4, Pg. 67 of Plan Chatham.

The development will also have a transit stop within the community as shown on Exhibit B.3 as well as sidewalks for connectivity which are encouraged or required in the Compact Community Ordinance.

The aging in place perspective allows for residents to live, work, and recreate in the same area. Being near other commercial uses to this development for eating, shopping, and medical needs, will assist in keeping more revenue within the county. This is a focus of the Economic Development Plan as well.

**Planning staff thinks this standard has been supported.**

**5. All other circumstances, factors, and reason which the applicant offers in support of the proposed amendment.**

Please note that sections 8, Stormwater and 9.1, Riparian Buffers, are now superseded by the Chatham County Stormwater Ordinance and the riparian buffer standards in the Watershed Protection Ordinance.

The project will be served by Chatham County water system and a private wastewater treatment system. A non-discharge permit will be required from NC Department of Water Quality. The membrane bioreactor system proposed will use an aerobic treatment technology which is said to be more efficient than a typical anaerobic treatment. The system is to produce little odor and noise. Please note that the county cannot regulate the type of wastewater treatment system for a development because that approval is under the purview of the NC Department of Environmental Quality. Irrigation lines will be used for the gardens, farming areas, and water features from the effluent of the wastewater which will be treated on-site.

The applicant proposed a balanced site grading process where the earth and rock moving from the higher elevations will be placed in lower elevations and when completed, the remaining will be used on site for berms and landscaping. Chatham County Stormwater regulations shall be followed for the 1 year, 24-hour storm event.

**Planning staff thinks this standard is supported.**

Mr. Sullivan stated in closing, the Planning Board has up to three meetings in which to make a recommendation to the Board of Commissioners for approval or denial. Should the recommendation be for approval, the following consistency statement is provided for consideration.

**The requested conditional district rezoning meets the intent and spirit of Plan Chatham by (a) being located within an area identified by the Board as acceptable for further development of compact communities and (b) has supported the goals and objectives of the Plan and the Compact Communities Ordinance.**

The following conditions are hereby incorporated into the approval:

**Site Specific Conditions**

1. The Master Plan, attached as Exhibit A, shall be the guide for all phases of the development. Any modifications, changes, alterations not allowed by administrative approval, must be resubmitted as a CD-CCO Revision and all submittal requirements followed. Total project area = 97.86 acres. Maximum Impervious Surface = 24%. Total Number of Dwelling Units = 161
2. The site plan/s for the commercial areas must be reviewed by the Chatham County Appearance Commission.
3. Landscaping/Screening. All required screening and buffers shall be in place prior to issuance of a certificate of occupancy or next optimal planting season after issuance of a certificate of occupancy. Existing vegetation may be used to fully or partially fulfill the landscaping and buffer requirements of the County. The extent to which the same can be used shall be determined by the Planning Department prior to issuance of the certificate of zoning compliance. It is strongly recommended that existing native vegetation be preserved where practical. Grading within buffers will be done in compliance with approved erosion control plans and as approved by the Planning Department prior to disturbance.
4. All required permits and/or authorizations from local, state, and federal agencies shall be submitted as part of the platting process and prior to any land disturbing activities covered under current ordinance, law, or regulation and before any such zoning determinations are approved. This includes but is not limited to Zoning, Planning, Building



Inspections, Environmental Health, Fire Marshal, NC Department of Environmental Quality, NC Utilities Commission, Watershed Protection, NC Department of Transportation, Utilities, etc.

5. Phasing – Phasing is permitted with this approval. The development schedule states the following and shall be followed unless a new phasing schedule is approved. It is:
  - 8/1/2022 – Submit for Construction Plans
  - 1/1/2023 – Submit for Final Plans
  - 3/1/2023 – Site Work Begins
  - 3/1/2024 – Residential and Commercial Construction Begins
  - 9/1/2025 – Some Residential and Daycare Completed
  - 2/1/2026 – Congregate Care Facility Construction Begins
  - 6/1/2027 – Congregate Care Facility Completed
  - 3/1/2028 – Residential Completed
6. Sidewalks will be provided along both sides of all streets, but not alleys, with residences or other buildings fronting them. Sidewalks will be provided along one side of all other streets, but not alleys, that provide connections within the community but do not serve as building frontage. Street trees, either planted or preserved, will be provided along all streets.
7. Solid Waste Management. Solid residential waste is managed and shall continue to be managed by residential curbside recycling and solid waste pick-up. With regard to construction debris and non-residential solid waste removal, Applicant shall continue to contract with builders and contractors to dispose of the same appropriately.
8. Commercial Uses. The commercial component of the development shall be limited to locations shown on the Master Plan and the uses allowed within the development shall be all those uses now allowed or later added as allowed in the December 2008 Zoning Ordinance under Section 10.13 Table 1: Zoning Table of Permitted Uses under the Zoning Districts denoted as “O/I,” and “NB.” Irrespective of whether such uses are shown as permitted or as requiring a conditional use permit, all such uses shall be deemed allowed as of right within the Herndon Farms development. Building signage for the commercial uses shall comply with the Chatham County Zoning Ordinance in effect of the original approval date. Monument signs shall be allowed as shown on Site Details sheet provided with the application labeled Exhibit B.4 Conceptual Landscape Plan. Commercial components of the Herndon Farms development shall be accessible via public sidewalks, greenways, paths, or trails.
9. Lighting Plan Approval. All area lighting shall meet County standards and not adversely affect adjoining residential areas.
10. Permits. Any required State or Federal permits or encroachment agreements, including a commercial driveway permit(s) from NCDOT shall be obtained and copies submitted to the County prior to approval of a preliminary plat for each phase.
11. Improvements. Off-site improvements required by NCDOT of any other agency shall be constructed at no cost to the County including the traffic improvements as stated in the most recent TIA and others as ultimately deemed warranted by the NCDOT following its analysis, if required.
12. The applicant must reach an agreement with the Chatham County Fire Marshal’s Office and North Chatham Fire Department regarding emergency vehicle access, on street parking restrictions, and provision of adequate off-street parking within the development prior to preparing construction drawings for the Construction Plan under the Subdivision Regulations. Off-street parking shall be provided for in accordance with Section 14 of the Chatham County Zoning Ordinance.
13. The Applicant shall demonstrate availability of adequate water and wastewater supplies to serve the property. Plans for provision of water supply shall be approved by the County prior to issuance of a Construction Plan for each phase. Such plans shall be in conformity with any County water policies then in effect and the Applicant shall pay all water fees and charges associated with the applicable phase, including then current water fees, review, and inspection charges, prior to submittal of the Construction Plan for each phase. The entire cost of extending public utility services if desired or required under County regulations shall be borne by the Applicant.
14. Adequate wastewater treatment service for the entire project area shall be designed and approved by the appropriate regulatory agency prior to issuance of a preliminary plat for each phase and constructed at no cost to the County. Adequate facilities for the spray irrigation of treated effluent from each phase of the project shall be designed, approved by the appropriate regulatory agency, and constructed at no cost to the County prior to issuance of a Certificate of Occupancy for any building within that phase of the project.
15. Equipment such as pumps and blowers will be appropriately insulated or buffered for noise reduction. Wastewater treatment plant blowers will be enclosed. All motor noise from the wastewater treatment plant will be subject to the provisions and restrictions of the Chatham County Noise Ordinance.

16. Moderate Income Housing. With the consent of the Applicant, and as an approximately equivalent alternative to and in lieu of the housing standards for Moderate Income persons set forth in Option A of the Compact Community Ordinance, the developer shall do the following: An agreed upon dollar amount via a contract with Chatham County supporting the payment in lieu option.
17. A detailed tracking process shall be developed by the applicant and agreed to by county staff (Planning and Watershed Protection Departments) prior to any land disturbing activity occurring on the property. The tracking mechanism must ensure that the built upon area for the project is tracked for each subdivision or commercial lot and include any areas with impervious surface. The tracking mechanism must also include a process for reconciling the final built upon area for each lot and include a linkage to the sizing of the stormwater devices. The tracking mechanism and all supporting documentation must be supplied to the county as part of any site plan or final plat submittal. Additionally, all documents must be provided to the county at the completion of the project and transferred to the Homeowner's Association. Upon completion of the project, the Homeowner's Association shall assume responsibility for tracking any additional built upon area allocations within the development. A detailed report of Built Upon Area calculations shall be provided by the developer to the County for each phase of the project to ensure the maximum 24% allowance is maintained.
18. A building permit shall be issued and remain valid at all times within three (3) years from the date of this approval becomes final and non-appealable or from the date any court order entered in an appeal regarding this approval becomes final and non-appealable, whichever is later. Failure to comply will void this approval and any site plans approved thereof and the project will be void.
19. The development may not be turned over to a Homeowner's Association until the county or other state regulatory agency has confirmed compliance with any required permitting.
20. The following waivers are approved as included in the application:
  - WAIVER NO. 1: Section 12.1 – Performance Standards – Commercial Component – applicant requests to not be limited to the 10,000 sq. ft. maximum in order to construct the 140,000 congregate care facility.
  - WAIVER NO. 2: Section 9.3 – Viewshed Buffer – the applicant requests a 50% reduction for approximately 200 feet along US 15-501 adjacent to the residential section of the project. The buffer in front of the commercial area is to remain at 100 feet.
  - WAIVER NO 3: Section 9.2 – Perimeter Buffer – the applicant requests a 50% reduction around the entire community with the exception of the area noted as Side E on Exhibit W.3.B which is proposed to be zero as allowed by the CCO Section 9.2.
  - WAIVER NO. 4: Section 9.3 – Viewshed Buffer – the applicant requests authorization to impact the viewshed buffer for required utility crossing which will involve the removal of existing vegetation and some grading for those lines.

### **Standard Administrative Conditions**

21. Fees. Applicant 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, building inspection, recreation and impact fees established from time to time.
  22. Continued Validity. The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditions listed above.
  23. Non-Severability. If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
  24. 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.
  25. 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 to or variations from any requirements of this permit must be approved through the Planning Department or other approving board before any such changes can take place.
- Mr. Travis Blake gave an overview of the project and stated as you evaluate the Herndon Farms development for compliance with the Chatham County CCO, zoning requirements, and subdivision regulations, please keep in mind this is a planned 55 years and older community that will also have to meet the criteria of the Fair Housing Act for older persons. Ms. Leslie McAdams and Travis Blake as the developers of this project want to create a place where people may come to live out their lives in a safe, well-planned environment that also encourages visitors which studies show is a major quality of life for older adults. We will have a farming and gardening operation with a pavilion and outdoor market. We chose to go through the development process using the

compact community ordinance as it is our belief and observation that dense developments are better than large lot developments for 55 years and older population. Although the property is an extremely desirable location that is broken up by a large 300' Duke Power easement and the four-lane highway 15/501, we have to be very innovative with the design and layout of this development to meet all the requirements. We have to create a desirable 55 and older community, control our stormwater, efficiently treat our on-site wastewater generated by the development, have 30% of the development be open space, meet the less than 24% impervious surface requirements for the Jordan Lake watershed, meet the buffer requirements, meet the commercial requirements of the compact community ordinance. We believe we have met and exceeded these requirements and supports our waiver requests.

- Mr. Blake stated the compact community ordinance was conceived, voted, and passed for Briar Chapel. However, input from the community and Planning staff that has inserted specific waivers and options in case another developer chooses to use the CCO or if Briar Chapel needed to make some changes to their submission. Herndon Farms is asking for two waivers that are specific in the ordinance. One is a 50' reduction for a substantial part of the perimeter buffer and a 50' reduction for a small portion of the viewshed buffer near the bottom of the northern residential section. These are very specific waivers that can be requested. We have also requested the waiver for the makeup of commercial component to complement our farm and agriculture theme rather than the less than 10,000 sqft small retail area. Keeping the small retail requirement would also hurt the existing struggling retail nearby. Our perimeter is adjacent to farm land and a solar array to the east and then 15/501 on the west, commercial to the south, and Hidden Oaks.

Mr. Blake stated on lot 5, in Hidden Oaks is 150' away from the nearest home planned for Herndon Farms. The home on lot 4 will be more than 100' from the nearest home, but unfortunately the owners of lot 4 when onto our buffer some years ago and removed all the large trees. This was pointed out on the site visit with the Planning Board. They have replanted the area with trees, but they will never look the same as before. We have discussed options with the owners of lot 4 and offered to build a berm in the area they cleared and plant substantial native trees on top of the berm, plus the topography of this area has the home 18' below the road level of the alleyway. We have also offered to erect a fence between the two properties for privacy and we have made this offer to other neighbors as well and they agreed. We have considered several ways to address the affordable housing component for Herndon Farms. We are a 55 and older development so we cannot house the general population, for this reason we believe we picked the appropriate option as payment in lieu option and will enter a contract with Chatham and provide payment for affordable housing and designated programs. We have also addressed the sensitivity of our neighbors and planning for the on-site wastewater treatment for Herndon Farms. This facility is designed to prevent noise and odors from leaving the treatment area. The collection system will be gravity and not pressure so there is less likely of any sewage spills. This system will generate and treat to the level of safe for human contact. One of Chatham's major assets is available land and location, we believe Herndon Farms as designed is making the best use of the land at this location. As you look through our submission you will realize we have created a desirable amenity for the county from marginal land and we hope you will appreciate our efforts and create this community for Chatham's older population and work with us on any issues you see. Mr. Blake thanked the Planning Board.

## PUBLIC INPUT

- Ms. Beth Perry stated she lives at 124 Hidden Oaks which is lot 3 on the map. My husband Brian spoke about our concerns at the public hearing, and we would like to reiterate those concerns again. We moved to Hidden Oaks from Chapel Hill about 15 years ago specifically for more space, land, and privacy. We know things are growing but hearing about this proposed community over the past few years has really been an anxious time and we are concerned on how it will impact our neighborhood and lives, such as water and traffic. This will definitely change our lives to what we have been used to, but the largest area of concern and our neighbors is the request that was submitted for a waiver of the 100' perimeter buffer that is required by the ordinance that Mr. Sullivan stated. This will substantially change the footprint of our community and impact the quiet and privacy particularly of two of our neighbors. Additionally, hearing that there will be spray irrigation and wastewater in the buffer area that directly adjoins our property we would want to extend that buffer from our property as much as possible. Our previous understanding is that it would all be directed across the road at the designated wastewater plant area. I have reviewed the CCO that was adopted in 2004 and on the first page it states, "the purpose is to protect Chatham County's

rural character by adequately buffering communities from neighboring properties and roadways.” We do not feel that this is adequately buffers communities and kindly ask you to deny the request to reduce the buffer and advise the developer to create alternatives to the perimeter buffer that is proposed in the current plan. Ms. Perry thanked the Planning Board.

- Ms. Kelly Truesdale stated they own the farm land next to Herndon Farms and is the most impacted. My dad grew up here and farmed this land his whole life and when Howard Bennett passed away, he gave my dad first right refusal to buy the property. We feel that he did that knowing my dad would not develop the land but preserve it. The perimeter buffer has been a thorn in our side from the beginning and we would appreciate a 100’ buffer at least, this is our home. My three boys have been raised here and we enjoy the peace and quiet and asked the board to look at that again. We did meet with Mr. Blake, and he keeps saying we approved what he went over with us, but that is not the case, we are appreciative that he met with us, but we did not give him the okay that the ideas he presented was alright with us, we would prefer the 100’ buffer. We want to take care of this land and not ruin it by development.
- Mr. Andrew Haight stated I am an adjacent property owner on lot 4 in Hidden Oaks and I am opposed to this development. My opposition mirrors the concerns expressed by my neighbor Beth and Brian Perry. My primary concern is the request to reduce the perimeter buffer from 100’ to 50’, my home is just 20’ from my property line which would place the structures 80’ from my kitchen window. This will seriously impact my quality of life and my neighbors. I would instantly have new neighbors that would be closer to me than my current neighbors. The suggestions from Mr. Blake is a step that would be helpful, but the solution is not reduce the buffer to 50’, it should remain 100’ and would reduce the negative impact on our quality of life. Also, with the removal of the trees will make the Duke power lines visible from my living room and kitchen, please keep the 100’ buffer intact, thank you.
- Ms. Cinda Hensdale stated her, and husband Chad live at 53 Hidden Oaks, neighbors of Kelly, Beth, and Andrew, and would like to emphasize and fully agree with what they all said, thank you.
- Mr. Mike Bishop stated he lives at 219 Oak Island and would like to keep the buffer at least 100’ away from his property line. He has been living there for 30 years and it is very peaceful with the animals in the yard and privacy. The spray field would be butting up against my property as well. I would like the county to come down to the property and see what I am facing and what everyone else is facing, thank you.
- Ms. Tahani Farah stated she lives at 50 Hidden Oaks, and she is here to support her neighbors in opposition to this reduction in the perimeter buffer from 100’ to 50’. This will impact my family especially in the winter with people overlooking our home and my kid’s playground. I also have a concern for the traffic, as you stated the only way to enter and exit the property is to use the U-turn, I do this every morning and I pray for myself and my kid’s because my child goes to the daycare across the street, and it is super dangerous. We would appreciate if the Planning Board could look into this before it is approved, thank you.

Planning Board discussion:

- Vice-Chair Lucier stated we have just heard a lot from the neighbors about the perimeter buffer, for waiver 3, why is a reduction from 100’ to 50’ in the perimeter buffer needed on the western side of Hwy 15/501? Mr. Blake stated it is not necessary, it could go back to 100’ we were just doing it for consistency. Vice-Chair Lucier asked why waiver 1 is needed because it is my understanding in the compact community ordinance that if it is in close proximity to a major highway or on a major highway, larger buildings are allowed already. That was only meant to include the buildings on the interior of a large compact community like Briar Chapel that are distant from a major highway. Mr.

Blake stated the way the ordinance reads is that the 100,000 sqft commercial requirements needs to be made up of a number of 10,000 sqft businesses, so the ordinance wanted smaller retail at the time. Vice-Chair Lucier stated that was meant for building on the interior and distant from the highway that is adjacent to the residential areas.

- Vice-Chair Lucier asked what exactly is a congregate care facility, does this include a range of living conditions from independent living to memory care? Mr. Blake stated it is meant to be independent living with services for seniors such as dining facility and medical services. One of our vendors does want to put a dementia unit in and will be all contained in one unit. Vice-Chair Lucier stated that will be 120 to 140 units, is that correct? Mr. Blake stated yes, it varies from 1 bedroom to 2-bedroom units. Vice-Chair Lucier stated legally for density it does not count towards the number of residences, but you will get 161 residences, plus another 120 or 140, so you will be up to 280 or 300 residences really on 97 acres. Mr. Blake stated it could be, but we have to remember the congregate care facility is a ½ car per unit, there is not a lot of traffic produced from them.
- Vice-Chair Lucier stated the wastewater treatment access will be through the Oak Island drive, is that correct? Mr. Blake stated yes, and as it has been indicated this is a different type of facility and it will not require constant maintenance with vehicles going in and out. Once the plant is constructed there will only be 1 to 3 trucks per week to the facility. Vice-Chair Lucier asked how many acres of spray fields would be required for the treatment facility on the western and eastern side? Mr. Blake stated we have laid out about 95,000 gallons per day for the development, but after the 50% reduction we would need 45,000 gallons per day, and we are only going to use the spray fields that are the easiest and most convenient, then the other fields will not be used. There is a total of 14 to 20 acres used for spray fields and we will also be using 8 acres of the Duke Power easement which will take a lot of the spray. Vice-Chair Lucier asked if that is counted towards their open space. Mr. Blake stated the power easement is not counted towards the open space.
- Vice-Chair Lucier asked is there a map that locates the open space? Mr. Blake stated yes, there is 40 acres except the 1 acre for the treatment facility and almost all of it is open space. We will have the option to switch the spray fields from open space to spray. This sprayed water is only two steps away from being potable water. Mr. Sullivan stated it is important to remember for the wastewater treatment through zoning you can control the location of the plant, but you cannot control the type of facility. That is all handled through NCDEQ for a permitting standpoint.
- Mr. Sullivan asked about the access point on Oak Island drive, do you have legal access to use Oak Island drive as an easement? Mr. Blake stated the easement was given to everybody else for this property, because we own the property and gave the easement. There is a legal agreement for maintenance that we are a part of, and we are allowed to use the easement. Mr. Sullivan stated what he has pulled up is from the application materials and it does not show an easement over this portion of Oak Island drive that connects the Hwy 15/501. Is there a separate recorded document that covers that? Mr. Blake stated he does not believe the recorded document shows the easement in that location, but the easement is supposed to be outlined by the power easement. Ms. McAdams stated there was an original shared maintenance agreement that included the owner of the west parcel property, and that person is recorded on all the documentation granting the easement and organizing the shared maintenance. Mr. Blake stated it is in the submitted packet and posted on-line.
- Chair Spoon asked about the eastern side, is it your intention to fully grade the entire property? Mr. Blake stated they will not be grading into the buffers, and we are balancing the site because we want the entire site accessible with a 5% grade, so it is a walkable property.
- Chair Spoon asked why they cannot maintain a 100' perimeter buffer as required by the CCO? Mr. Blake stated this is a compact very intense development and wanted to keep everything on one

side of the road and as you can see it is a hard site to make work. From the very beginning it was proposed that we would have a 50' buffer because it is so tight, and we need to use all that we can. Chair Spoon stated you could have reduced the number of units you put into the design and maintained the 100' buffer. Mr. Blake stated yes, but our design parameters would have given us 180 units, but we are only at 161 so we have reduced it already.

- Ms. Siverson stated this is a difficult project for this property and this size of density. She is particularly concerned about the buffer reduction along the north and east side. Along the east side it has mature beautiful hardwood forest and part of our compact community ordinance states that wherever possible those trees should be preserved. At the site visit she paced out 50' from the property line and it is not going to preserve too many trees and will be stark on the eastern side. When we were walking the property, we were told that the adjoining neighbors were in agreement, but that is not the case and so I cannot support that 50' reduction on that eastern side or the northern side. It is too hard to cram all of these units into this property and is not conducive to a compact community. Also, we just learned tonight how the traffic will be and cannot imagine that many cars having to make U-turns, especially older people. Ms. McAdams stated there is a plan by the NCDOT to turn this into a superstreet, so everyone will be making U-turns. Also, because this is a senior community there will be fewer people driving and a transportation stop is designed into the plan. Lastly, we thought everything was okay with the neighbors on the eastern side, so that was a surprise to us, and we did not intentionally mislead anyone by saying they were in support. Ms. Siverson understands people look further into a project and then realize what is coming and change their mind.
- Vice-Chair Lucier stated when we wrote the CCO a number of years ago the perimeter buffer was an important part of it especially when denser development like a compact community butted up against existing residential developments, we wanted to make sure there was an adequate buffer between them. As you heard tonight, we do not take the reduction in the buffer as a straight forward thing to do especially when it abuts up against the existing residences, when it does not that might be a different issue. Mr. Blake asked would the board have less of a problem if the viewshed buffer was 50' or less all along the front so we could shift everything to get 100' buffer on the eastern and northern sides. We might be able to get 70' to 80' by moving some things around, we could increase the buffer, but is 100' the number the board wants to see? Chair Spoon stated we would have to see the revisions, but the easiest way would be to restore the 100' and not ask for a waiver at all. Chair Spoon stated he does not have any reservations to approving the rezoning at this point.
- Vice-Chair Lucier asked about the affordable housing aspect of this project and if it is payment in lieu, how much money will be provided? Ms. McAdams stated they spoke with Ms. Watkin-Cruz and discussed the expectations. It was agreed that the payment in lieu will be 5% of the buildable site value. One way to get the value is to have Chatham county hire a licensed appraiser to value the land. We would take 5% of the site value and multiply that by the number of lots. We are anticipating \$30,000 per lot which would be \$241,500 for a payment in lieu. Vice-Chair Lucier stated there would be nothing affordable on site. Ms. McAdams stated we will not have anything under that program, but we have designed four different residential units for different affordability. We will have 19 townhomes that would be about \$260,000 per unit and that is on the lower end of the price point spectrum.
- Chair Spoon stated it sounds like there are some open-ended questions on this item and would not be against tabling it a month to allow the developer to come up with some answers for improved buffers and affordable housing.

Motion made by Mr. Fogleman to table this item until the December 7<sup>th</sup> Planning Board meeting, second by Vice-Chair Lucier. Chair Spoon completed a roll call vote, and this item was tabled with a vote of 7-0, unanimously.

- Chair Spoon stated we would like some more clarity on affordable housing and for the buffers the safest way to do that is to reduce units and have a 100' buffer where you will not need a waiver under the CCO, but you are free to adjust it and make it work as you feel fit.

PUBLIC HEARING:

2. Request by M. Travis Blake on behalf of Herndon Farms One, LLC for subdivision **First Plat** review and approval of **Herndon Farms**, consisting of 164 lots on 97.86 acres, located off US 15-501 N and Vickers SR-1719 and parcels numbers 93852, 2752, 18750, 18897, 18896, and 18909.

Motion made by Ms. Siverson to table this item until the December 7th Planning Board meeting, second by Mr. Fogleman. Chair Spoon completed a roll call vote, and this item was tabled with a vote of 7-0, unanimously.

X. NEW BUSINESS:

- Chair Spoon stated we will have another remote meeting on Monday, November 8<sup>th</sup> and this is an opportunity for us to meet with the consultants that will be helping with the UDO process, and they will do a presentation on their process. Chair Spoon asked the Planning Board members to come prepared with questions. Mr. Mullis stated there will be an email distributed on Thursday or Friday, we have had the consultants put something together in preparation for the meeting with some thought provoking questions while you are brainstorming so you are more prepared for Monday.
- Chair Spoon stated he would like to provide some contexts from our discussion on off-site septic for the BOC. If you have thoughts on that please provide them, they are welcomed. I will send out an email to include the board members that are not here tonight to receive their thoughts as well. It would be good to get both the pros and cons, so the commissioners have a full understanding of the issues because they make the final decisions.

XI. BOARD MEMBERS ITEMS:

1. Update from the Planning Board liaisons.

- Vice-Chair Lucier stated there was nothing to report for the Pittsboro Planning Board. Chatham County Planning board members received a copy of the summary for the recommendation to deny the Congruus request for a CCO map amendment. It is a good idea to provide that to the commissioners especially when the Planning Board recommendation differs from the Planning Staff.
- Ms. Siverson stated the Agricultural Advisory Board did not meet. Siler City Planning Board is working on their UDO with setbacks and to see if they will allow homeless shelters.

XII. PLANNING DIRECTOR'S REPORTS:

Mr. Sullivan reported on the following:

1. Minor Subdivision spreadsheet
2. Upcoming November Public Hearing
3. During the meeting Mr. Sullivan sent an email from Anne Lowry regarding septic systems.

XIII. ADJOURNMENT:

There being no further business, the meeting adjourned at 10:05 p.m.

Signed: \_\_\_\_\_ / \_\_\_\_\_  
Jon Spoon, Chair Date

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