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Vote on a request to approve 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.

..ABSTRACT

Action Requested:

Vote on a request to approve 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.

Introduction & Background:

Zoning: R-1

Water System: Community Well

Sewer System: On-site and Community Off-site

Subject to 100-year flood: Flood hazard area within the development.

General Information: The subdivision process is a four (4) step process: Concept Plan, First Plat, Construction Plan, and Final Plat. The applicant has completed the community meeting and the Concept Plan review. This is a conservation subdivision and lot sizes and setbacks vary, but the method to calculate net density is outlined in the Subdivision Regulation, Section 5.2 C (4) (a) "During a First Plat review, the first Planning Board meeting shall include a Public Hearing to receive comment on the proposed subdivision." Item (b) states "Following the Public Hearing, the Planning Board shall review the proposal, staff recommendation and public comments and indicate their recommendation for approval, disapproval or approval subject to modifications. If the Board recommends disapproval or approval subject to modifications, the necessary reasons or modifications will be specified in the minutes of the meeting"

Discussion & Analysis:

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, 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.

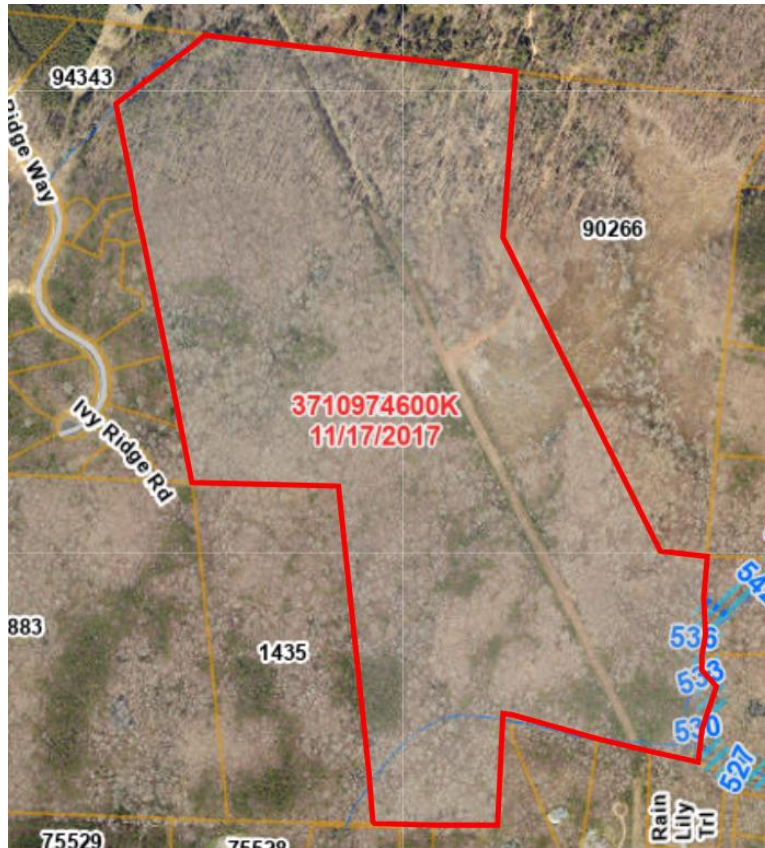
Water Features: Steven Ball with Soil & Environmental Consultants submitted the Riparian Buffer Review Application and riparian buffer map, to Drew Blake, Senior Watershed Specialist for review. Mr. James Lastinger of the US Army Corps of Engineers completed an on-site determination on April 14, 2021, 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, 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.



Planning Board: Planning Board met November 7, 2021. Approximately four speakers provided comment during the public hearing. Concerns raised were noise pollution, light pollution, would like the project to be redesigned and entirely within Chatham County, community well water consumption affecting neighboring properties, Orange County not needing to review the project, increasing the density of housing in the area causing longer commute times, decrease in property value, increased traffic on Jones Ferry and whether a turn lane is needed, impact on the wildlife, can the project be connected to Morgan Ridge, and consider larger lots.

Mr. Warren Mitchell, P.E. was present and presented an overview of the proposed project. Board member discussion included if the community wells will have a holding tank, during the 24-hour pump test will the neighboring wells be monitored, where in the process was the project in Orange County and NCDOT, and septic in the natural space. Mr. Mitchell explained one or two 5,000 gallon holding tanks per community well will be in place. It is not a requirement to monitor neighboring wells, but it's a good idea for the community well that will be located near existing homes. Orange County wanted the proposed project to be processed as a major subdivision, but later it was determined the major subdivision process was not required. Mr. Mitchell agreed with the board, he

didn't like the septic area located in the natural space, but stated the primary focus was to get the primary conservation areas in natural space. His previous layout to staff proposed 2/3rd of the primary with no septic areas in natural space. The board wanted to see the previous layout and wanted to know what the total acreage of septic fields in natural space and decided to propose the project to December 7 meeting. Prior to November 2, 2021, county staff spoke with Orange County planning staff and determined the proposed project will need to be presented before Orange County for the approval of the public right-of-way, but not processed as a major subdivision.

Mr. Mitchell provided a cover letter dated November 19, 2021, per the cover letter 6.8 acres of off-site septic fields are located within natural space of the first plat submittal reviewed during November 2, 2021, Planning Board meeting. Per request of the Board, a second layout option for the proposed project has been submitted and titled First Plat Layout 3.

Planning Board:

The Planning Board resumed discussing this request during a virtual meeting on December 7, 2021. Board discussion included appreciation that the wetland areas are not included within the lots; support "Layout 3" showing the off-site septic removed from natural space; comments that the proposal is consistent with recommendation of no septic fields in natural space that is currently under consideration by the Board of Commissioners; 200' buffer recommendation from NC Natural Heritage Program (NCNHP); traded septic areas for home sites, and would like to see the primary areas given the highest priority as stated in the guidelines. A board member stated the 200' stream buffer recommendation from NCNHP was for aquatic species.

Mr. Warren Mitchell, P.E. was present and addressed the board. Mr. Mitchell showed the difference between the two layouts and how "Layout 3" doesn't have any off-site fields within natural space. Layout 3 reduced the off-site septic areas from 30 lots to 24 lots.

Some board members had concerns with Layout 3 having a tradeoff of septic areas for homes and would like to see the primary areas given the highest priority as provided in the guidelines. Mr. Mitchell understood the concerns but stated the Layout 3 is better than a conventional layout and this project has been a long process trying to make conservation area work.

Board members stated Layout 3 is clearly preferable than the layout under consideration or a conventional subdivision, open space and natural areas are preserved, and the design reflects some of the requests that were asked of the developer. The Planning Board by a vote of 8-1 recommends approval of the First Plat application.

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 (Strategy 5.2) 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.

Recommendation:

The Planning Department and Planning Board by 8-1 vote 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 1, 9, 11,12, 31, 75, & 76"
6. Final Plat shall provide lot numbers in the community septic areas.