



Chatham County Planning Board Minutes February 1, 2022

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
Brittany Harrison
Alex West
Jamie Hager

Absent

George Lucier, Vice-Chair
Clyde Frazier
Allison Weakley
Bill Arthur
James Fogleman

Planning Department

Jason Sullivan, Director, Kim Tyson, Subdivision Administrator, Chance Mullis Planner II, Hunter Glenn 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, 11 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 January 4, 2022 Planning Board minutes. A few corrections were mentioned, and a motion made by Vice-Chair Lucier to approve the minutes, second by Mr. Arthur. The January 4, 2022 minutes were approved 10-0, Ms. Hager was absent at the January meeting and did not vote.

VI. ELECTION OF OFFICERS:

Election of Planning Board Chair and Vice-Chair. Mr. Spoon nominated Mr. Lucier for Chairman, second by Mr. Arthur. Mr. Spoon conducted a roll call vote and Mr. Lucier was voted the new Chairman 11-0, unanimously. Ms. Siverson nominated Mr. Spoon to Vice-Chair, second by Mr. Arthur. Chair Lucier conducted a roll call vote and Mr. Spoon was voted the new Vice-Chair 11-0, unanimously.

VII. PUBLIC INPUT SESSION:

There were no residents to speak currently.

VIII. SUBDIVISION & ZONING ITEMS:

1. Request by Mark Ashness, P.E. for on behalf of The Conservancy Real Estate Group, LLC for subdivision **First Plat** review and approval of **The Conservancy at Jordan Lake**, consisting of 1,524 lots on 1,262.9 acres, located off Old US Hwy 1, S.R. #1011 parcels #62390, 5774, 5775, 5780, 5233, 60441, 65275, 85343, 65274, 85344, 5558, 5238, 68379, 5570, 85342, 5504, 5211, 5569, 85341, 5519, 85340, 85346, 85347, 5551, 69379, 85339, 5545, 5559, 5502, 5568.

Ms. Tyson stated the Planning Board reviewed this request during their January 4, 2022, meeting and approximately ten adjacent property owners spoke during public hearing. Concerns raised during the hearing included increased property taxes, increased traffic, safety issues with cyclist and motorist, light pollution, loss of farmland, concerns with water quality, loss of rural character, two private shooting ranges on an adjacent property, a private airstrip on adjacent property, request to place an aviation notice and a shooting range notice on each deed, private wastewater treatment plant, high density, open space, perimeter fencing to prevent trespassing, individual wells with spray fields nearby, and the development having a single entrance.

Mr. Mark Ashness, P.E. and Mr. Nick Robinson, Attorney were present and gave an overview of the proposed project.

Board discussion included:

- What will be allowed in the agricultural area, and will areas be cleared?
- Will timber management continue and how will the timbering be harvested within the community?
- How will the timber management areas, which are surrounded by natural space, be accessed?
- The regulations include that a majority of the lots should abut open space to provide residents with direct views and access?
- How will potential buyers be notified of the private shooting ranges, chipping mill, and private airstrips?
- How was the conservation space selected?
- Why is there only one entrance?

Mr. Ashness addressed the board and stated the agricultural areas will have some type of cover crop and other areas will continue to be under timber management. Timber management will be in the open space and not part of the 41% conservation space and there will be a timber management plan. The utility easements will be utilized to gain access to the timber management areas for harvesting. Spray irrigation will be used in the agricultural areas and the crops would be managed by a contracted farmer.

A map was shown to explain where the open spaces were located. The open space areas were 50' wide up to 400' wide which represented the 53% conservation space described by Mr. Ashness.

Per Mr. Robinson, notification of the private shooting ranges, chipping mill, and private airstrips will be disclosed in the lot purchaser as part of the contractual documents. The owner that is shooting also has an obligation to not allow their ammunition to go on other people's property.

Mr. Ashness stated conservation space discussed by the board were secondary areas, per the conservation guidelines and the primary areas has been reviewed by Rachael Thorn, Watershed Protection Director, and NC Natural Heritage Program.

To address only having one entrance, Mr. Ashness stated there is one road in and out, but it is a divided parkway with no loaded driveways, limited crossing, and the layout meets NCDOT requirements. NCDOT does not have any concerns. A traffic impact analysis (TIA) was performed and there will be two ingress lanes and two egress lanes with a median divided parkway. Possibly double left hand turn lanes to enter the project. There were plans to have an entrance off Pea Ridge Road, but they did not have road frontage and the US Army Corps of Engineers would not allow access. Mr. Ashness expressed that all road upgrades to Old US #1 should be within the current right-of-way. A secondary access is also proposed for emergency vehicle access off of Partian Road which will be gated and be sire activated.

Prior to the upcoming February 1, 2022, board meeting, additional attachments were submitted and provided in the packets. Sage Ecological Services provided a letter dated January 14, 2022, the letter stated, "NCNHP report identified one area of Dry Oak-Hickory Forest which was identified in subsequent mapping and incorporated into the Primary Natural Area. The remaining areas surveyed by NCNHP were identified as uneven-aged forest composed of loblolly pine stands. Based on the significant pine content on the canopy and surrounding intensely managed areas, Sage concurred with NCNHP that these natural communities are not structurally or ecologically significant. NCNHP identified the surrounded forests as "pine stands." The areas identified as mesic mixed hardwood forest and dry oak-hickory forest contain canopies that are co-dominated by pines."

Staff has received several phones and emails with concerns about increased traffic, private wastewater treatment plant, private gun range adjacent to the proposed project, private airstrip adjacent to the proposed project, and the selection of open space area.

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 agriculture and a small portion of the proposed project is rural on the Future Land Use and Conservation Plan Map. The description for agriculture includes single family homes, large-scale agriculture, related processing facilities, supporting commercial and service use. The description for rural includes low density development, agriculture, large residential lot, home-based and small-scale businesses, conservation easements, regional greenway trails, and protected lands. 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 also stated the Planning Department recommends granting approval of the road names The Conservancy Parkway, Adelaide Circle, Ellerston Place, Crystals Downs Lane, Oakland Hills Avenue, Starmount Forest Drive, Lahinch Lane, Somerset Hills Court, Bakers Bay Lane, Ballyneal Drive, Ganton Circle, Carnoustie Court, Saint Andrews Loop, Rock Barn Circle, Sand Hill Court, Muirfield Circle, Kingsbarns Court, Kingston Heath, Pine Needles Lane, Melbourne Trail, Hope Valley Circle, Winged Foot Drive, Sunningdale

Circle, Myers Park Trail, Kiawah Circle, Prairie Dunes, Riviera Place, Bandon Dunes Trail, Oakmont Drive, West Sussex Place, Sawgrass Pond Lane, Royal Birkdale Lane, Mid Pines Place, Swinley Forest Drive, Bethpage Circle, Valderrama Drive, Victoria Pines Drive, Pine Valley Lane, Woodhall Lane, Cabot Links, Friars Head Place, Shoreacres Drive, Winding Bay Drive, and Whistling Straits Way and granting approval of subdivision First Plat for **The Conservancy at Jordan Lake Subdivision** with the following conditions:

1. The following development schedule shall be submitted: Construction Plan submittal for Phase 1: 322 lots within 2 years of First Plat approval with Final Plat by December 31, 2027, Phase 2: 348 lots Final Plat by December 31, 2030, Phase 3: 437 lots Final Plat by December 31, 2032 and Phase 4: 414 lots by December 31, 2035.
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 Emergency Operation approved road name Bakers Bay Lane.

- Mr. Frazier stated it is his understanding that this subdivision like other subdivisions, if it meets the requirements of the subdivision ordinance the commissioners must approve it, is that right? Ms. Tyson stated if it meets the requirements, yes.
- Mr. Nick Robinson stated he is here on behalf of the applicant for the Conservancy of Jordan Lake, a by right conservation subdivision. At the last meeting members of the Board asked for some additional information and we heard those concerns and spent a significant amount of time and energy to address those concerns on the maps. The primary and secondary natural area selection issue was raised, and we provided an additional letter from Sage Environmental, and some mapping was provided by CE Group regarding the primary and secondary natural areas. Mr. Mark Ashness shared this information with Ms. Rachael Thorn the Director of the Watershed Protection department, and she stated the adjustments to accommodate the Planning Board concerns did not change her prior approval and the approval from her organization still stands. Please keep in mind that the review of the maps and the selection criteria is delegated to Rachael Thorn as the Watershed Protection director under the subdivision regulations and the conservation guidelines.

Mr. Robinson stated another issue that was raise was the number of lots adjoining open space, the site plan has been revised and provided to the Board to show that more than 50% of the lots adjoin open space as denoted by the pink lots on the plat. The lots that were counted last meeting along the small slivers of land are not counted as adjoining property to open space on the revised plat. It is important to note that Section 7.7 K3 says, the majority of the lots should, not shall, but should adjoin open space. It is not actually a requirement, but in the spirit of things the applicant has ensured a majority of the lots do adjoin open space.

Mr. Robinson stated a third issue that was discussed last meeting was timber management and it is a fact that timber management under Section 7.7 D2 of the ordinance allows silviculture and forestry management within the conservation area. In the northeast corner of the revised plat is the only place to be used for forestry management going forward and there is an existing timber management crossing there that is allowed. This is similar to the US steel subdivision next to Briar Chapel that included timber management, there will be a forestry management plan for that area which will include thinning and minimal removal during a 20-year period.

Lastly, Mr. Robinson stated there was discussion about the airstrip and gun ranges on adjoining properties last meeting and we are aware of those. The applicant said they will disclose the distance of such uses to purchasers. There is nothing in the subdivision ordinance about that, but we will commit to that request. Mr. Robinson stated the Planning staff has reviewed the entire application and continues to recommend approval because of the fact that the ordinance requirements are met. We request that the Planning Board vote to approve this subdivision.

- Mr. Mark Ashness pulled up the map showing the timber management area and showed the Board members a zoomed in diagram of the existing crossing. In typical timber management there would be timber mats in place to cross that area, this is what they have done in the past, currently, and will be the continued plan in that specific location. Mr. Ashness pulled up a map showing contiguous open space and showed the Board members all of the open space that is contiguous and stated that area is just over 350 acres and about 63% of the open space that is an arc around the property. Mr. Ashness pulled up the map showing lots adjoining open space and explained how 50% of the lots in fact are adjoining open space. The areas in white on the map are still open space, but they are not subject to the conservation area. The applicant is also willing to add a public access stub out along the parkway area for the parcels not part of this project to ensure they will not be land locked.
- Mr. Arthur stated the map looks like there are more homes not connected to open space than lots connected to open space, how is that 50%? Mr. Ashness stated the amount of lots adjoining open space is between 50% and 51%, and the ordinance states should, and not shall, adjoin open space. There are 1521 lots and about 768 lots adjoin open space.
- Mr. David Kuzdrall thanked Mr. Robinson for saying they will inform property buyers of the uses nearby and suggested that it is placed on deeds so the final property owners will be notified of the uses as well. The Conservancy at Jordan Lake, as proposed, still shows plans for a large area of high-density housing in an area currently zoned as R-1 and designated as predominantly agricultural in the Chatham County Future Land Use and Conservation Plan Map. This proposal markets itself as a conservancy subdivision, yet it aims to ignore the current R-1 zoning rules, take unfair credit for lands already required to be set aside and protected within riparian buffers and claims that 50-foot-wide slivers of land flanked by Compact Residential structures should be counted and marketed as “open space”. Chatham County Future Land Use documents define the suitable locations for Compact Residential as those areas located near a Community Center. This area is not located near a Community Center and is not suited for the type or quantity of housing proposed.

None of the revised documents show that any adjustments have been made in order to ensure the safety of all stake holders regarding the existing airstrip adjacent to the proposed subdivision. In fact, the Conservancy at Jordan Lake still proposes the area of highest residential density directly in line with the existing airstrip. This issue was raised and discussed at the January meeting and despite the obvious concerns no changes have been made to the proposed layout. The safety risks of the proposed wastewater treatment plant are being glossed over by assumptions that it will be designed perfectly, constructed perfectly, operated perfectly, and that nothing will ever go wrong with it. We all know that nothing is perfect and that a single point failure within this proposed system could easily lead to an ecological disaster leading the county and the developer to end up on the national news.

Due to these issues and many others that would negatively impact the stakeholders for years to come I respectfully request that the county reject this subdivision proposal as written and require that any

future submissions adequately address the safety, ecological, and land use issues at hand. Mr. Kuzdrall thanked the Planning Board.

- Mr. Payton Holland asked for clarification about the timber management, is area 7 the only area going to be left in timber management? Chair Lucier stated that is what the applicant had stated. Mr. Holland said while continuing to review this project my previous concerns still stand with the impact on rural character and this subdivision does not meet the intent of the conservation subdivision. While some of the timber management areas have been removed, natural space is defined as unimproved, naturally occurring land, and unaltered by human activity. There is a direct conflict by what our regulations say allowing silviculture and what is in the guidelines. It talks about our open space as having nonintrusive uses and timber management is obviously an intrusive use of that open space. So, there is a conflict between our subdivision guidelines and the regulations which you all have helped clarify in recent updates.

Additionally, as we look at both exhibits the developer plans to run a 4500' wastewater line from the emergency access road to the Pea Ridge Road parcel, which goes across creeks, wetlands areas, and through stretches of space identified as contiguous natural areas. That does not meet the standard of natural space because that would need to be disrupted to bury the line. This also presents significant water contamination concerns in addition to potential leaks from the private sewer management system. We have seen 87,000 gallons of sewage leaked from a similar private system in Briar Chapel. There are more than 100 acres marked as wastewater spray fields and another 140 acres marked as agricultural/wastewater spray fields. So, 27% of all that open space on the project is wastewater spray areas, there is 240 plus acres of spray areas and only 559 acres of conservation. When you take all the spray fields, the lines, the timber management, and numerous other concerns into consideration the developer purchased enough land to simply draw a buffer around 1300 acres to achieve the 50% contiguous conservation space to build the density they want, but otherwise could not build on this land. I do not feel that is the intent of a conservation subdivision and I urge the Planning Board to recommend denial of this project until it meets such intent which would be reducing some of the density, individual septic systems or public sewer to preserve the creeks and wetlands that they cross, and preserving our rural community, plus the many things our neighbors have submitted in comments tonight and in writing. Mr. Holland thanked the Planning Board.

- Mr. Scott Smith stated I own a 72-acre farm that abuts the proposed subdivision on its eastern border. I would like to address several concerns. I have previously spoken about some of these concerns at the former Shaddox Creek Subdivision zoning meeting, which is the predecessor subdivision to this same group, as well as at the January zoning meeting. I have previously spoken about the grass airstrip that Roy and Anita Brooks and I own, as well as three shooting ranges – two on my property and one on the Brook's, so I will not spend more time on them other than to request that prior to zoning approval, that the developers clearly state how they will be notifying each purchaser about the fact that they are moving in next door to existing airstrips and firing ranges. I would like to state up front that in general I am not opposed to development. Properly planned and implemented, it benefits the county. Also, I am not opposed to a subdivision adjacent to my farm.

My concerns are that the developer appears to be exceeding the intent of the conservation subdivision guidelines, to the detriment of the neighbors as well as potential future subdivision property owners. These concerns include the density of the development. This is a rural area. There are no community centers near this proposed subdivision. It is approximately 9 miles by road to the nearest Grocery

Store, a Target in Holly Springs. It is 11 miles to Publix in Apex, 9 miles to the closest Harris Teeter, Food Lion, etc. Shopping for school supplies, clothing, sporting goods, etc. is also at least 8 miles away, as are the nearest restaurants. The closest schools in Chatham County are approximately 8 miles away. Apex has a school that is around 5 miles away. There are a lot of compact residential structures which are a part of this development. Under Chatham County rules, Compact residential Structures should only be located near a "community Center." However, there are no community centers near this proposed subdivision with no community centers nearby to offer something for residents to do, I am concerned for the potential for trespassers from the development to come onto my land. This is especially a concern due to the shooting ranges and airstrip. I feel it reasonable to request that a fence suitable for containing personnel and off-road vehicles should be installed by the developer between his property and mine. My personal thanks to the Chatham County Planning Board members, the staff, and employees for all of their hard work on our behalf.

- Ms. Donna Pritchett stated she lives on Black Burn Road that borders Beaver Creek Road about 1 mile up from Old US 1. The traffic study suggested that most members of the Conservancy will exit the community and go south on Old US 1 to gain access to US 1, we disagree with that. Many people that live in this part of the county, western Wake County, and even Lee County use Beaver Creek Road to travel to areas such as Chapel Hill, Durham, RTP, and western Wake County. Many people also take Old US 1 North to New Hill Olive Chapel Road or Beaver Creek to Hwy 64. The roads mentioned are all two-lane roads and we feel the increase in traffic along Beaver Creek Road will be dangerous to the residents trying to pull out from the many gravel roads on Beaver Creek Road. This challenge has already been demonstrated with the addition of Jordan Point and the Apex Friendship schools in Wake County. There will be an increase in construction traffic on Beaver Creek Road and Old US 1 as those roads will need to be maintained. What will be done to improve broadband internet access in this part of the county with the additional 1500 residents being added? This is a problem in all rural areas, and it is definitely a problem in this area which was even more apparent during the pandemic when many of us were forced to work from home. We have limited options for internet in this part of the county.

Another topic that was not mentioned was the impact that these additional 1500 residents would have in the event of an emergency evacuation declared at Shearon Harris plant. This could prove disastrous with so many residents in this area trying to gain access to the evacuation routes on US 1 South and US 64. We all hope this never happens, but those of us in the evacuation area know we all must be prepared for this possibility. The increased competition to get to the evacuation route needs to be addressed to satisfy the impact of this community within the primary evacuation zone of the power plant. The creek that goes across my property will have inflow from the developed area with no discussion of how this flow will impact the creek that ultimately flows into Jordan Lake or our ground water. Ms. Pritchett thanked the Planning Board.

Board discussion:

- Vice-Chair Spoon wanted to follow up on the timber management areas, is that true that only the small corner on the northeastern side is going to be in timber management and if so, why are the other areas still designated as timber management and silviculture if they are not going to be utilized as such? Mr. Ashness stated the other areas were not as easily accessible and, in the EIA, we stated that those will be naturalized and that is the intent today. There will be other timber management on the project, but it will not be in the conservation area. We have an additional 25% of open space on the property and some of that area will likely be continued as timber management as it is today. Ms. Weakley stated in

the EIA areas 1-6 would not be timbered and only area 7, so are you telling us that areas 1-6 will not be timbered? Mr. Ashness stated that is correct. Vice-Chair Spoon asked why are they not represented as conservation space on the plat, why are they designated as timber management? Mr. Ashness stated it is currently timber management, but it will naturalize.

Chair Lucier asked if the HOA will have any impact or role in determining the timber activities on the properties? Mr. Robinson stated this exact same scenario unfolded at the US Steel subdivision, which is adjacent to Briar Chapel, that land was owned by a retirement entity for the US Steel Labor Union and was managed for timber for decades. It was then acquired by Newland, and they created the first approved conservation subdivision in Chatham County, and they converted some of that to roadways and lots and some stayed as timber management. It has a timber management plan, and that plan says within 20 years there would be some thinning and that would be the timber management program for that timber managed area. So yes, the property owner's association at Briar Chapel, US Steel is part of Briar Chapel association, would be made aware of the timeframe and when the thinning had to occur and would take place through the association.

- Chair Lucier asked if it troubles the applicant that only 11.8 acres of the 1200 plus acres are primary natural area which is roughly only 1% of the total acreage. That seems like a small amount for something that is being considered as a conservation subdivision. In the conservation subdivisions we have reviewed in the past the primary conservation area percentage has been much higher. Mr. Robinson stated what is designated as primary conservation area is not something that we get to pick, it is what is reviewed by a survey of land and determined to be the kind of land that you would want to preserve on a primary basis. It may be true that other subdivisions had more percentage of primary areas, but there are no minimum requirements of primary areas that must exist in order for a conservation subdivision to meet the conservation subdivision requirements and regulations. This property is just the way it is, the conservation subdivision provisions in the subdivision ordinance do a lot to force you to preserve the part that is primary and then after that you still must preserve a total of 40%, so it is still being preserved and natural. There was not as much primary preservable area on this property as there are on some other, but that does not disqualify it from being allowed a conservation subdivision.

Ms. Siverson stated the letter from Sage in our packet did say that it was determined between Sage and Natural Heritage Program that only 13 acres were significant, and that the remaining area were not as structurally or ecologically pure or significant. The question of whether or not the entirety of this assemblage of acreage is actually worthy of being a conservation subdivision, this is a struggle to accept. Mr. Robinson stated he hears the concern and that might be a conversation for the UDO subcommittee, but that is not an issue that is even raised in the subdivision ordinance. The US Steel subdivision was timbered for many years and had the exact same situation as this property. Denial of a subdivision cannot be made on the basis of a standard that does not exist in the subdivision regulations, but it might be a good thing to think about. Ms. Siverson asked if they have timbered at US Steel since has been a subdivision. Mr. Robinson said no they have not, the subdivision started in 2012 and that management plan had a 20-year plan for thinning.

Ms. Siverson stated the timber and agricultural areas that give you an extra 5% density, which is significant, how can the county be assured that those areas are actually going to remain in agriculture to justify that extra 5%? Mr. Robinson stated part of the condition of approval of a conservation subdivision is that there is a designated area that remains agricultural, and it must stay that way. The

subdivision ordinance under conservation subdivisions regard to agricultural density bonus says, “upon completion of such agricultural uses all land that previously occupied by those uses shall be preserved in perpetuity as natural space and shall not qualify for future development.” Eventually the agricultural use may stop and if so, it will have to be preserved forever. Ms. Siverson stated the county has stream buffer rules, but what is allowed in the stream buffers and the wetlands is timber activity and the State regulations on stream buffering are not anywhere near what our county regulations are for buffering, so are you going to be abiding by our buffer rules when the timbering happens and how can we be assured of that? Mr. Robinson stated they will follow the applicable requirements and regulations for timber management.

- Ms. Weakley stated at the previous meeting it was pointed out in the EIA on exhibit G showed 7 timber management areas 1-6 would be removed from management and allowed to go back to the natural state, but area 7 would remain, and that is confirmed, correct? Mr. Ashness said correct. Ms. Weakley stated if that were the case, she would like to request that you remove the existing timber management areas from the final plat so that nobody is confused and think that they might still be timbered in the future. Ms. Weakley also mentioned the statement from last meeting about it is possible that some of these timber areas could stay in timber management if the preliminary information back from the hydrogeologist indicated that some of the spray areas may not be needed. It is concerning that spray areas were mentioned regarding existing timber management areas. Mr. Ashness stated what he was referring to was there are areas that are not in the regulated conservation space but may be in other open space that is nonregulated that timber operations could continue as they currently occur. There is an addition 30% of open space beyond the required 40% open space, we are over a total of 70% open space without even getting into rights-of-way and lots in the project.

Ms. Weakley stated if you subdivide a property for a development, you cannot claim you are a bona fide forestry operation. If we are approving a conservation subdivision following the county buffer rules, wouldn't those buffer rules stand? Mr. Sullivan stated he would have to check with Watershed Protection, but the post 2008 riparian buffer requirements have provisions for timber management. Ms. Weakley stated that is significant because there is a lot that can take place in a buffer in the forestry guidelines that the county rules would not allow.

- Chair Lucier asked about taking the existing timber management areas 1-6 that Ms. Weakley mentioned if they could be removed on the final plat and could that be a condition. Mr. Ashness stated they will accommodate that request. Mr. Sullivan stated if they take that away they might lose the 5% agricultural bonus. Mr. Ashness stated there is other parts of the project for the agricultural bonus and he is not aware of a percentage threshold for agriculture to receive the 5% bonus. Mr. Sullivan pulled up the ordinance in the agricultural preservation density bonus section and it was determined it does not specify a minimum amount of acreage for agricultural preservation, so if they remove areas 1-6 off the map and only timber on area 7, they will still get credit for the 5% density bonus. Mr. Robinson stated that is correct and regarding areas 1-6 that they are not going to be used for future timber management but go back to their natural state and stay natural space, we will make that clear on the final plat as requested. There was discussion about removing areas 1-6 from the map all together rather than a note or a condition. Mr. Sullivan suggested it be a condition in the motion tonight and between now and the BOC meeting a revised plat map could be provided which is what would be voted on. Ms. Weakley stated it just needs to be explicit so there is no confusion later.

- Chair Lucier asked about the yellow line going through from one spray area to another in the northern part, is that infrastructure for the spray fields? Mr. Ashness stated it is infrastructure as a utility connection corridor. The irrigation easement is simply showing one of the routes for the irrigation line and an example how the line would go through that particular area. Ms. Weakley stated it is going through natural space and that is not allowed. There was discussion about what was and what was not allowed in the natural space per the ordinance in section 7.7 D6 and what was allowed in open space. Mr. Ashness stated they have no issue with routing the irrigation infrastructure around the north edge where the yellow space is and that can simply be an irrigation access easement and we can achieve that using the connector near the US Army Corps property. We will clearly state that the utilities will not run through the natural space.
- Vice-Chair Spoon said it is stated that the continuity of natural space is of most importance and there is not continuity to it when there are lines of open space in and out of the natural space. Mr. Ashness stated the intent is access is allowed to go through either type of space as long as it is not paved it is up to interpretation if that disrupts the continuity. Ms. Weakley stated the definition of natural space in the conservation subdivision guidelines says, “natural space is unimproved land in its naturally occurring state and preserved to regenerate to its naturally occurring state, unaltered by human activity, and preserved to maintain and improve the natural scenic ecological, cultural, hydrological, and geological values of the area.” The intention is block of natural space that are not cut up by all these utility easements or sewer infrastructure.

Mr. Robinson stated subsection C in section 7.7 talks about connectivity of conservation space, “at least 50% of the proposed conservation space shall consist of a continuous tract” conservation space is both natural and open space. It continues and says, you can have utility easements in the open space and as long as the utility easement is in the open space, which is part of the conservation area by definition there is no way that utility easements within conservation area can violate the continuity requirement. Ms. Weakley stated the principles of conservation planning in Plan Chatham in the appendix, natural space is unimproved land, unaltered by human activity, when you start breaking it up and fragmenting it is counter to the intent of conserving natural space as large contiguous areas. Mr. Robinson stated this is by definition a gigantic contiguous conservation space and has a small amount of open space within it where some particular activities are allowed and that is what the ordinance says.

Mr. West stated the landowner has presented their plan that they have abided by the restrictions set forth in section 7.7 and we are saying it is our opinion that x, y, and z can be interpreted differently. We are supposed to make sure it meets the definitions that are set forth in the subdivision regulations and staff has taken it upon themselves and said yes, this does meet the regulations and have recommended this project for approval. Unless we as a Board are willing to go against the staff recommendation and then have the commissioners go the opposite direction of our recommendation, the opinion of what conservation should be does not have any bearing on what conservation is as enumerated by this particular subdivision within those subdivision regulations. Chair Lucier stated it is a legitimate discussion because there is some ambiguity as to how the ordinance was written regarding the sewer infrastructure impacting any natural space. Mr. West stated ambiguity needs to be interpreted in the benefit of the people who own the land or who has done the research. It does not mean we will always side with them, but at the same time if we change what something means midstream when it is the staff opinion that it followed the regulations then we are just moving the goalpost in a way that is ultimately against the landowner itself and that is a big problem.

Chair Lucier stated there is benefit to these discussions because they often improve the quality of a development even when it is approved. Mr. Robinson stated this had been a great conversation and the changes we will make there will be no ambiguity anymore because in D5 it says, "easement for drainage access for utilities and underground utility lines are allowed in the conservation space." It had been pointed out in the next area D6, "shared water, septic, and sewer infrastructure is allowed in open space, but not allowed in natural space unless approved by the Environmental Quality department." What we are saying is we are going to put those shared water and sewer infrastructure in open space that is 100% allowed in this ordinance and compliant, so that takes care of the problem. Mr. Ashness stated right now we have 33% of natural space shown on our plan and it will be quite easy to adjust that, the area we are talking about will not even take 1 % from that amount. Also, none of the spray area is in the regulated open space, it is all in the non-regulated open space. So, the only thing that will be in the regulated open space would be some open space corridors for access and underground utilities.

- Vice-Chair Spoon stated he still does not see how this helps alleviate the problem with the continuity of natural space which is said clearly "of most importance," designating little alleys of open space so you can put utilities in the natural areas is not living up to the continuity. Mr. West stated that needs to be defined, it is not clearly defined except where it says 50% of contiguous tract. If that is the whole definition of what that is then it probably needs to be defined in the UDO, but we must interpret what is written now and that is not defined, and it is not clear what that means. Vice-Chair Spoon stated that is why we are having this discussion because we are an advisory board and filling in the gray areas so if it is not clearly defined that is why we are arguing whether or not that interferes with continuity by doing it this way. Mr. West stated it is important that we interpret what is on the page, this discussion is enlightening, but that does not weigh in on what the vote is, the vote is, was 7.7 followed in this instance.

Mr. Frazier stated section 7.7 C says, connectivity of conservation space, at least 50% of the proposed conservation space shall consist of contiguous tract, and conservation space includes both natural and open space, so changing those areas to open space does not interfere with the connectivity of conservation space. Vice-Chair Spoon stated, but it also says that continuity of natural space is of most importance. Ms. Weakley stated in the first paragraph of section 7.7 it says large contiguous blocks of land, not slivers of land, not perimeter buffers of land, but large contiguous unfragmented lots. Mr. Frazier stated that is all in conservation space. Mr. Robinson stated applicants that come before the county have to be able to know in advance what the rules are and this applicant has judiciously and vigorously gone through the ordinance and tried to adhere to it in every way possible and if you go outside of that and start talking about conservation planning concepts and superimpose those, you have basically made it impossible for an applicant who comes before the county to know what the rules are. This is not a weak effort, a lot of time, energy, and money has been expended to get a site plan and subdivision plan that complies with your conservation regulations and this plan does and your Planning staff agrees with that.

- Ms. Siverson stated the wastewater treatment facility capacity is proposed for 360,000 gallons per day and the projected use will be about 250,000 gallons or less per day, do you have plans for additional developments to use this treatment plant in the future? Mr. Ashness stated there are no plans to do anything like that at this time, this facility is for this project only. Ms. Siverson asked if all the spray irrigation will drain towards Shaddox Creek watershed, does any of it drain towards Jordan Lake? Mr.

Ashness showed on a map the ridge line on the property which is mostly along the proposed parkway and how all of the spray drainage will flow away from the lake except for a small amount used on the greenway and multi-use trails.

Ms. Siverson stated we have heard a lot of concerns from adjoining property owners about ground water quality and this project does have a lot of spray fields near the perimeter and streams, we have seen issues with Briar Chapel, and even livestock dying, this project will have 275 acres of spray irrigation which is a lot and there is concerns for those who are downstream. Is there any plan to mitigate if people's wells start to be impacted by the spray areas? Mr. Ashness stated this is a hypothetical situation and he has personally been involved in several spray projects where there are wells immediately adjacent and has not heard of any ground water quality issues, some of these projects go back to the early 1990's starting with Governors Club. Your concerns are appreciated about the technology and operations, but this will be a membrane filter treatment facility which has a high level of treatment and then after that treatment there will be application into the soil to replenish the groundwater unlike some other treatment facilities that drains into the streams. Ms. Siverson stated she agrees that is better than discharging into a stream, her concern is the size of this project.

- Mr. Robinson stated he had found the language that Vice-Chair Spoon was referring to in the conservation guidelines, this is the guidelines and not the ordinance, and it says, "continuity of natural space is of most importance, "i.e., many isolated pockets of primary area are less valuable than several primary areas all connected with secondary areas" it is expected that secondary areas and nonidentified areas will required to ensure continuity between primary areas." What this is saying is you do not want to have multiple patches of primary areas, you want to try and get those connected, but that is not the situation we have here, we have one primary area and the rest of it is secondary and all of it is conservation space.
- Chair Lucier stated one of the advantages of the property is it does border the US Army Corps land, which is a huge piece of conservation, so there is continuity there with the northern border. However, at the same time there is hunting and controlled burns going on there and much like the notice about the rifle ranges and airstrip people who buy into the property need to be aware of those activities on the Army Corps land. Mr. Robinson stated he recalls a previous subdivision with a signage requirement, and we will accept a condition for signage about the activities on the US Army Corps property. Mr. Andrews stated he appreciates everyone's comments and concerns about this project, the immensity of space of this project is huge, we are talking about 909 acres of open space and if you were to reduce that to the conservation space with 559 acres, for comparison 640 acres is a square mile of land. We know this is close to an airstrip and a rifle range, but we are talking about an incredible amount of space here. Going back to the point of what a conservation subdivision is all about, we are setting aside 909 acres and Wake County does not have anything like this and we are doing something that sets aside an incredible amount of space for a long time.
- Ms. Hager stated a resident had mentioned concerns about the evacuation route and congestion on two lane roads and was interested in what the applicant has to say about these concerns. Mr. Reinke stated he conducted the Traffic Impact Analysis (TIA), and we work with staff and NCDOT to scope the project such as the size of the project and the roads and intersections impacted by the development. The TIA does meet all of the guidelines by the NCDOT and has been reviewed. As far as the road improvements, there are extensive road improvements being required of this developer and with this project in place and with the improvements required for this project, the roadways will be much better

off than if this project never existed. As far as the emergency evacuation route, that is something that is not covered in a TIA, but the NCDOT is very aware of this development and has been involved the whole time and the emergency evacuation route is something that is handled on that level. The NCDOT has seen the TIA and has provided their input for the distribution of traffic. Ms. Hager asked if there was anything that could be done to address the emergency evacuation route concern. Mr. Reinke stated he will reach out to the district level and let them know about the concerns and make sure that is something that is being considered on their level. Mr. Ashness stated this area of the county is going to be changing with the thousands of jobs that are going to be created and all the roads in this area will have extensive improvements to accommodate.

- Chair Lucier stated two-thirds' of this development is going to be age targeted and asked if it will be 55 years and older. Mr. Ashness stated it is still to be determined, it could be 50 or 55 years old. Chair Lucier stated this development is supposed to be a residential service area for the Moncure Megasite, why would this be age targeted? Mr. Ashness stated he is 60 years old and plans to keep working for another 10 years, people are working well past 50 and 55 years old today.
- Vice-Chair Spoon asked about affordable housing and if that will have a payment. Mr. Robinson stated there is not an affordable housing requirement for a standard subdivision, but there are recreation and impact fees for lots not age targeted, which will be paid. Mr. Ashness stated there will be townhomes within this development so there will be some stratifications of pricing levels within the project.
- Ms. Hager asked about the resident Mr. Smith who was concerned about fencing and trespassing signage and if anything was being done about that concern. Mr. Ashness stated we are sensitive to that area and on other projects we are using berms, fencing, and heavy landscaping to address any issues and create separation. This is something we will definitely look at when we get into the details of the construction plans, and they have been in communications with Mr. Smith. There was some discussion if the Board can make this into a condition. Mr. Sullivans stated we could include language to encourage the developer to continue working with the neighbor, but as a condition that requires them to do it would not be enforceable. Mr. Ashness stated they can create an exhibit between now and the BOC meeting where we look at that area in a little more detail and show intent to what we plan on doing there. The Planning Board agreed to this condition.
- Ms. Weakley stated she would also like to see the applicant clarify standards that apply to proposed stream buffer impacts for timber management. Mr. Ashness stated there will only be one area in timber management and they use mats to cross the buffer and no timbering within the buffer. We can work with staff between now and the BOC meeting to find out what those requirements are for areas left in their location to function.
- Mr. Andrews asked if we could have a recap of all the conditions, we as the Planning Board are asking the developer to do. Chair Lucier listed the different conditions; the existing timber areas (1-6) identified on the subdivision layout will not be timbered and will be converted to natural space, the sewer spray irrigation lines will not cross natural space but be in open space, signage will be installed advising residents of shooting ranges, airstrips, and US Army Corps of Engineers property and associated activities that may occur, the applicant will assess emergency evacuation routes for Shearon Harris and contact NCDOT regarding any changes needed to the Traffic Impact Analysis for the project, the

applicant will evaluate options to install fencing or a berm adjacent to the Smith property, and the applicant will clarify standards that apply to proposed stream buffer impacts for timber management.

- Ms. Siverson stated she will be voting to approve this item because it does meet the major subdivision regulations as they stand but hopes the UDO will address some of their concerns. Mr. Arthur stated he agrees, and this project has a lot of flaws, but in the future, we need to address these concerns.

Motion made by Mr. West to approve this item with the following conditions the existing timber areas (1-6) identified on the subdivision layout will not be timbered and will be converted to natural space, the sewer spray irrigation lines will not cross natural space but be in open space, signage will be installed advising residents of shooting ranges, airstrips, and US Army Corps of Engineers property and associated activities that may occur, the applicant will assess emergency evacuation routes for Shearon Harris and contact NCDOT regarding any changes needed to the Traffic Impact Analysis for the project, the applicant will evaluate options to install fencing or a berm adjacent to the Smith property, and the applicant will clarify standards that apply to proposed stream buffer impacts for timber management. Mr. Arthur seconded the motion. Chair Lucier conducted a roll call vote, and this item was approved with a vote of 7-4, opposed by Vice-Chair Spoon, Mr. Fogleman, Ms. Hager, and Ms. Weakley.

2. A legislative public hearing for a request by the Chatham County Board of Commissioners to consider amendments to the Chatham County Subdivision Regulations: amend Sections 2, Definitions, to modify the definitions for major and minor subdivision and 4(C), Exempt Subdivision, to add an exemption for the division of property for public right-of-way dedication for road widenings.

Mr. Glenn stated several sections of the Subdivision Regulations will be amended as part of this process change. Section 2 Definitions will be amended, specifically, the definitions of Minor and Major Subdivision. Section 4 (C) Exempt Subdivisions will be amended to add an additional exempt subdivision. This will be a sixth option allowing for the division of a tract of land resulting solely from dedication of land to be used for public road right-of-way not involving the creation of new lots. Section 7.2 (3) Rural Roads will add language stating the Planning Department may accept rights-of-way in any subdivision in which no additional lots are being created.

The Board of commissioners held the public hearing at the January 18th meeting. The commissioners confirmed this procedural change was intended to aid developers of the TIP site. Staff explained that yes, the intention of the change was for the benefit of potential TIP site developers. There were no public comments. Discuss the request and provide a recommendation to the Board of Commissioners.

- There was some board discussion about the changes to the subdivision regulations and it was determined to leave the major subdivision paragraph as originally written, not to strike anything from it. The Board agrees to approve the strike language from the minor subdivision paragraph and the additional paragraph written to the minor subdivision C6.

Motion made by Ms. Hager to approve this item, seconded by Vice-Chair Spoon. Chair Lucier conducted a roll call vote, and this item was approved with a vote of 11-0, unanimously.

3. A legislative public hearing for a request by the Chatham County Board of Commissioners to consider amendments to the Chatham County Zoning Ordinance: amend Section 10.13, Table of Permitted Uses, to revise footnote 3 to include connection to Town of Sanford water, in addition to the county water system. This footnote only applies to the Triangle Innovation Point advanced manufacturing park in Moncure.

Mr. Glenn stated section 10.13, the Table of Uses currently has a footnote number 3 that says: When Chatham County Water and Town of Sanford Sewer Infrastructure is utilized the use is allowed by right. The new language for footnote 3 is proposed to read: When Chatham County Water or Town of Sanford Water and Sewer Infrastructure is utilized the use is allowed by right. Recent project requests considering the Triangle Innovation Point Site that would utilize Chatham and Sanford public infrastructure have needs that could exceed Chatham County's current water capacity. This change will keep the intended use of the language while providing additional clarity to what the reality of the development may be. This will allow developers of the TIP site to use Town of Sanford utilities and still have their use allowed by right. This amendment is simply a clarification to have the language in the ordinance match the intent.

The Board of Commissioners held the public hearing at the January 18th Meeting. There were no public comments and no questions from the commissioners. If the Planning Board thinks the request should be approved, the following consistency statement is provided for consideration:

The request to amend the Zoning Ordinance is consistent with Plan Chatham, the adopted county comprehensive plan, pursuant to Strategy 5.1 under the Economic Development Plan Element that reads "Promote appropriate targeted industries and commercial uses at Megasites and Employment Centers." Discuss the request and provide a recommendation on the text amendment and a consistency statement to the Board of Commissioners.

- Chair Lucier asked if the infrastructure is in place already for water and sewer. Mr. Sullivan stated he believes the sewer infrastructure is in place and the water is not available yet. Vice-Chair Spoon asked if there would ever be an example where they would use both Chatham County and Town of Sanford water? Mr. Sullivan stated there could be a situation where Chatham County water is used initially and then transitions to Town of Sanford water. There was also some Board discussion about what uses could be used by right with access to Chatham and Town of Sanford water and sewer.

Motion made by Mr. Arthur to approve the consistency statement, "Promote appropriate targeted industries and commercial uses at Megasites and Employment Centers." Consistency statement seconded by Ms. Siverson. Chair Lucier conducted a roll call vote, and the consistency statement was approved with a vote of 11-0, unanimously.

Motion made by Mr. Arthur to approve this item, second by Ms. Siverson. Chair Lucier conducted a roll call vote, and the consistency statement was approved with a vote of 11-0, unanimously.

IX. NEW BUSINESS:

X. BOARD MEMBERS ITEMS:

1. Update from the Planning Board liaisons.

- Vice-Chair Lucier stated there had not been a Pittsboro Planning Board meeting yet, it is next week.

- Ms. Siverson stated the Siler City Planning Board agenda had nothing to report and the Agriculture Advisory Board did not meet in January.
- Ms. Weakley stated the Chatham Conservation Partnership first meeting was canceled because some of the speakers were not available. The next meeting will be on April 21st and the topic is TBD but could be turtles.

2. Unified Development Ordinance subcommittee formation.

- Vice-Chair Spoon stated he will have a meeting with Mr. Sullivan and Mr. Mullis about setting up future meetings and formalize towards the end of February or the beginning of March. The members who have volunteered for the subcommittee are Mr. Spoon, Mr. Lucier, Ms. Siverson, Ms. Hager, Mr. Frazier, and Mr. Andrews.

XI. PLANNING DIRECTOR'S REPORTS:

Mr. Sullivan reported on the following:

1. Minor Subdivision spreadsheet
2. Winston-Salem Fertilizer Plant fire – why zoning and subdivision regulations are so important.
3. Northeast Wastewater Study Commission – this commission has started, and the meeting agendas can be found on the Chatham County website if you would like to follow along.

XII. ADJOURNMENT:

There being no further business, the meeting adjourned at 9:24 p.m.

Signed: _____ / _____
 Jon Spoon, Chair Date

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