

**CHATHAM COUNTY PLANNING BOARD**  
**MINUTES**  
**January 2, 2007**

The Chatham County Planning Board met in regular session on the above date in the auditorium of the Cooperative Extension Building in Pittsboro, North Carolina. A quorum was present to begin the meeting. The members present were as follows:

Present:

Mark McBee, Chair  
Cecil Wilson, Vice-Chair  
Evelyn Cross  
Charles Eliason  
Clyde Harris  
Sally Kost  
Martin Mason  
Paul McCoy  
Mary Nettles  
Chris Walker

Absent:

Planning Department:

Keith Megginson, Planning Director  
Jason Sullivan, Assistant Planning Director  
Lynn Richardson, Subdivision Administrator  
Kay Everage, Secretary to the Board

- I. CALL TO ORDER – Chair: Chairman McBee called the meeting to order at 6:03 p.m.
- II. APPROVAL OF AGENDA: Mr. Eliason made a motion; seconded by Ms. Cross to approve the agenda as submitted. There was no discussion on the motion and the motion passed unanimously. (9 Board members)
- III. CONSENT AGENDA: Mr. Walker asked that Item III. B. [Preliminary Plat Approval of “The Woods at Wilkinson Creek”] be pulled from consent agenda for discussion. Ms. Cross made a motion; seconded by Mr. Wilson to approve the consent agenda as submitted with removal of item III. B. stated above. There was no discussion on the motion and the motion passed unanimously. (9 Board members) Chairman McBee noted that discussion of “The Woods at Wilkinson Creek” would follow the public input session below (see Item IV. B.)
  - A. Minutes:  
Consideration of a request for approval of Board minutes for December 5, 2006 Planning Board meeting.
  - B. Preliminary Plat Approval:  
~~Request by Samir W. Bahho on behalf of Wilkinson Creek, LLC for subdivision preliminary plat approval of “The Woods at Wilkinson Creek”, consisting of 23 lot on 47 acres, located off S. R. 1537, Tobacco Road, Baldwin Township. Note: This item was removed from consent agenda for discussion below. (See IV. B.)~~

C. Final Plat Approval:

Request by Contentnea Creek Development Company for subdivision final plat approval of “**Windfall Creek – Phase III**”, consisting of seven (7) subdivision lots, 1 exempt lot, and revision of Lot # 49, on 50 acres, located off S. R. 1716, Big Woods Road, New Hope Township.

End Consent Agenda

IV. A. PUBLIC INPUT SESSION: Fifteen-minute time of public input for issues not on agenda. Speakers limited to three minutes each.

No one requested to speak at this time.

B. PRELIMINARY PLAT APPROVAL:

Request by Samir W. Bahho on behalf of Wilkinson Creek, LLC for subdivision preliminary plat approval of “**The Woods at Wilkinson Creek**”, consisting of 23 lot on 47 acres, located off S. R. 1537, Tobacco Road, Baldwin Township.

Martin Mason arrived at this time [6:08 p.m.]

Mr. Walker referenced memorandum dated December 12, 2006 from Jacquelyn Presley, North Carolina Wildlife Resources Commission (included in tonight’s agenda packets) recommending 100-foot buffers along each side of all perennial streams. Mr. Walker asked if the developer considered this letter and the recommended 100-foot buffers.

Samir Bahho, engineer for the applicant, stated that 100 foot buffers are not required; that the developer is providing 50 foot wide water hazard buffers along each side of the creeks; and that 100 foot buffers could be considered on a lot-by-lot basis.

Ms. Richardson stated that some lots would have difficulty expanding to 100-foot buffers along both sides of the creek.

Mr. Walker stated that, since this is something we cannot require, he would appreciate the developer considering the 100-foot buffers on a lot-by-lot basis.

There was no further discussion. Ms. Cross made a motion; seconded by Mr. Eliason to grant approval of, 1.) the road names Chelsea Way and Ada Court, and 2.) preliminary design approval of “The Woods at Wilkinson Creek” as submitted and as recommended by staff with the following condition:

1. Prior to final plat submittal, signatures of all Roads End property owners shall be obtained regarding the abandonment of Roads End private easement.

There was no discussion on the motion and the motion passed unanimously. (10 Board members)

V. SKETCH DESIGN APPROVAL:

- A. Request by Dornoch Group for subdivision sketch design approval of “**Lystra Road Subdivision**”, consisting of 90 lots on 144 acres, located off SR-1721, Lystra Road, Williams Township.

Ms. Richardson reviewed the agenda notes for this request. She stated that this issue was tabled last month; that there were some concerns raised that have been addressed by the developer (see copy of letter dated December 22, 2006 from Karen M. Kemerait, attorney, included in tonight’s agenda packets and filed in the Planning Department.); that a copy of memorandum dated December 26, 2006 to Jane Pyle, Chatham County Historical Association, from Dr. Linda F. Carne-McNaughton, Archaeologist was distributed to Board members earlier tonight; and that said memorandum states that the rock piles on the property are not of significance and that the cemetery is located on an adjacent tract.

Chairman McBee noted the following issues to be addressed by the developer:

- archeological significance
- development within the Herndon Creek ravine, natural area, and wildlife corridor
- discrepancies in the wetlands as identified by S&EC, Ms. Weakley and neighbors
- storm water management, and
- traffic analysis.

Karen Kemerait, attorney with Blanchard, Jenkins, Miller, Lewis, & Styers, P.A., was present representing the applicant. Ms. Kemerait noted that she, the property owner, representatives of the engineering firm, and a soil scientist (among others) were present tonight to answer questions and address concerns. Ms. Kemerait summarized information addressed in her handout titled, “Lystra Road Subdivision, Chatham County Planning Board, Sketch Design Application, January 2, 2007” that included:

- Tab #1: Application
- Tab#2: ArcView Map, parcel #18756
- Tab#3: Illustrative Master Plan Map
- Tab#4: Existing Conditions Map
- Tab#5: Sketch Plan Map
- Tab#6: Wetland Delineation and Stream Evaluation Report with Wetland Map
- Tab#7: Soil/Site Evaluation Report with Soil Evaluation for Subsurface Septic
- Tab#8: Traffic Impact Summary.

(Note: A copy of this booklet is filed in the Planning Department.)

Ms. Kemerait stated that proposed lots would average 1-1/2 acres and would be served by Chatham County water and that individual lots would have private

septic systems. She stated that the applicant has contacted Allison Weakley regarding the historical structures and wetlands; that the applicant has also spoke with Jane Pyle of the Chatham County Historical Association; that the site plan has been revised to address some of the concerns; and that last week copies of the revised plan were sent to adjacent property owners informing them of these changes. Ms. Kemerait addressed the following:

Protecting Herndon Creek:

Ms. Kemerait stated that Herndon Creek runs along the southwest portion of the property that is within the WS-IV protected watershed district; that the applicant and development team are committed to protecting Herndon Creek and have voluntarily agreed to exceed the requirements of Chatham County; that a 100 foot undisturbed buffer and a 200 foot non-build buffer would be provided along Herndon Creek to protect the quality of the creek; and that the applicant would focus all residential development outside the Heritage area as indicated on the revised site plan.

Traffic Analysis:

Ms. Kemerait noted two main issues of concern:

- 1.) It was alleged that the traffic analysis was performed on a day that Chatham County Schools were not in session; and
- 2.) that the traffic analysis did not take into account proposed development not yet built in the area.

Ms. Kemerait stated that it has been confirmed that the traffic study was performed on Tuesday, March 20<sup>th</sup>, 2006; that Paul Joyce, Assistant Superintendent of Chatham County Schools, has stated that Chatham County schools were in session on that date; that the traffic study did consider the other developments of Chatham Downs, Booth Mountain, Williams Corner, and Briar Chapel; that the number of proposed lots were reduced from 144 to 90 after the traffic study was done; that a traffic analysis is not required for a subdivision request; and that the applicant would comply with recommendations and/or requirements of NCDOT after their review.

Historical Structures:

Ms. Kemerait stated that Jane Pyle and Allison Weakley walked the proposed property on December 24, 2006; that Ms. Pyle has stated that there is no cemetery located on the property but believes the cemetery is located on a parcel nearby; that Ms. Pyle did not identify any historical structures but did point out there were low lying rock piles on the southwest portion that appear to be the result of purposeful piling; and that this that might be something that could be examined in the future. Ms. Kemerait stated that this is something that the applicant is willing to do if the Board recommends as a condition.

Wetlands:

Ms. Kemerait stated that S&EC has prepared a preliminary wetlands report identifying wetland areas on the property based upon the Army Corps of Engineers requirements; that S&EC is confident that they have correctly

identified the wetlands; that members of S&EC visited the property again to look at areas that Ms. Weakley noted as wetlands; that S&EC stands by their earlier determination that the wetlands have been correctly identified; and that the Army Corps of Engineers would be looking at this property and making the final determination on what is or is not a wetland before preliminary plat submittal.

In closing, Ms. Kemerait stated that this request is for sketch plan approval; that according to Section 4.1 B. of the Subdivision Regulations sketch design is a process to insure the adherence to required design standards of Chatham County and to get initial input of the Planning Board and Board of County Commissioners as well as adjacent property owners; that preliminary and final plats are then submitted; that the applicant has met all the requirements of Chatham County; that the applicant has tried to address the problems; and that the applicant has submitted a good revised site plan before the Board tonight. Ms. Kemerait asked that the Board approve the sketch design request (as recommended by the Planning staff) so that the applicant could move forward with the project.

Discussion followed.

Mr. Harris inquired about the time frame (morning and afternoon) of the traffic analysis report. It was noted that the report was taken during the morning between the hours of 7:00 a.m. – 9:00 a.m. and in the afternoon between the hours of 4:00 p.m. – 6:00 p.m. Mr. Eliason noted that the S&EC report has identified wetlands on lot #47 but the plat map does not show any buffering along this area.

Kevin Hamak, Landscape Architect / Project Manager, with The John R. McAdams Company, Inc., was present representing the applicant. Mr. Hamak used the overview map to show where this lineal wetland becomes a stream. He noted that individual wetlands are not buffered.

Mr. Eliason stated that much of the buffering would be on private lots. He asked what vehicle the developer would use to make sure individual lot owners maintain the buffers and that the buffers are not disturbed. Ms. Kemerait stated that covenants within the Homeowners Association would address this. Mr. Eliason asked if a condition could be requested at preliminary approval that staff review and accept the homeowner's agreement that protects these buffers. Ms. Richardson explained that it is standard that buffers (along intermittent and perennial streams) are shown on the final map and adhered to. Mr. Eliason noted that moving the cul-de-sac has improved storm water management.

For clarification, Ms. Cross asked if the buffering along Herndon Creek (100 feet undisturbed and 200 feet non build) is each side or total. Ms. Kemerait stated that the buffering is 100 feet on each side. Ms. Kost asked if the Duke Power easement is included in the 133.9 acres. Ms. Kemerait stated that the acreage does include this easement. Ms. Kost stated that she spoke with Ms. Weakley last week and that Ms. Weakley had not met with the developer. Ms. Kemerait stated that she has had contact with Ms. Weakley and that there have been E-mail exchanges.

Allison Weakley, a biologist and Chatham County resident, stated that she sent her data to the developer; that she was told that the developer would be back in touch with her to set up a site visit; but that the developer has not yet contacted her.

The following landowners spoke:

- Gretchen Smith, 598 Jones Branch Road

Ms. Smith cited the following issues of concern:

traffic, storm water runoff, closeness of lots to steep banks, investigation of heritage and archeological sites, explanation of how the developer is going to maintain the illustrative plan presented to the Board, maintaining the rural character and quality of Lystra Road area, limit land clearing, wastewater, placement of houses on lots, wetlands and streams, environmental issues, development within Herndon Creek Ravine Significant Natural Heritage area, increase buffers around the ravine, density, wetlands area, environmental impact assessment, cul-de-sacs placed too close to ravine area, and rock piles.

She stated that she has contacted NCDOT regarding a traffic study analysis and some specifics noted were:

- 1.) a traffic study is expected to provide the worse case scenario;
- 2.) the consultant would take a traffic count one day in the middle of the week for ten hours with a minimum of three hours in the morning (beginning at 6 or 7 a.m.), a minimum of three hours in the afternoon, and depending on the location possibly at lunch time;
- 3.) if a school is located nearby the count should include not only afternoon commuter traffic but also a count during the time of day when school lets out;
- 4.) conditions at the time of the study should be noted, i.e. raining, sunny, roadwork being done, and etc.;
- 5.) if there is a school nearby the count should include the time of day the school lets out;
- 6.) consider additional traffic such as boat towing and etc.,
- 7.) the traffic study should include all proposed growth;
- 8.) the traffic count should not be done on a Monday or Friday or on a holiday or the day after a holiday; and
- 9.) sight distance should be considered.

Ms. Smith noted that it was mentioned that the developer's traffic count was done on March 28, 2006; that the school verified that school was in session on March 28<sup>th</sup>; that March 27<sup>th</sup> was an optional teacher workday; and that The John R. McAdams Company has indicated (in their letter dated November 10, 2006) that the traffic study was done in May 2006.

Mr. Eliason stated that this project does not require a traffic study and that the Board does not have any ability to base approval on a traffic study.

Ms. Smith stated that the Chatham County Subdivision Regulations state (for sketch and/or preliminary plat approval) certain things that can be required in order to make a responsible review; that this includes an economic impact assessment in which a traffic study is a part of; and that an environmental impact assessment is also referenced.

Board discussion followed. Ms. Kost noted that page 39 of the Subdivision Regulations #(2) c. references concerns noted above by Ms. Smith regarding requirements for sketch and/or preliminary plat approval.

Mr. Megginson gave some examples received in the past from this particular item:

- 40 houses with 2 vehicles per house = 80 more cars
- 40 houses with ten trips per day = 400 trips
- traffic impact assessments done by consulting firms (add overall growth rate of maybe 3% plus existing approved developments that are known of, i.e. x # of years it will be a certain amount.)

Mr. Megginson stated that various information has been presented to attempt to satisfy this particular item; that NCDOT reviews the plans submitted by the developer (at preliminary consideration) and evaluates specifications for a driveway permit; that site distance for the location is considered and whether or not it meets requirements for turning lanes; and that NCDOT has to provide access to the property. Mr. Eliason noted that NCDOT has denied driveway permits in the past.

Ms. Smith concluded by stating that there have been some changes made with the sketch design but that she is still concerned about the Herndon Creek Ravine and the potential discrepancies in wetlands and stream surveys. She reiterated her concerns voiced during the December 5, 2006 Planning Board meeting in addition to her concerns regarding traffic as noted above.

- Jennie Deloach, Booth Hill residence

Ms. Deloach stated concern regarding discrepancies between the two different soils maps (dated January and October 2005) submitted relative to septic systems, i.e. drip or subsurface.

Mr. Eliason explained that the applicant evaluated the previous project based on the number of home sites for that purpose and reevaluated this project based on this number of home sites.

Jim Beason, licensed soil scientist with Soil & Environmental Consultants, PA (S&EC), was present representing the applicant. Mr. Beason stated that he suspects that the original preliminary evaluation was proposed for surface application and that the current report was for subsurface. Mr. Beason noted that language on the survey map always refers to, "see the S&EC report" and that the map by itself is an incomplete report.

Ms. Richardson stated that Thomas Boyce with Chatham County Environmental Health Department has reviewed the soils report and found it adequate for sketch design review; that a more detailed report would be submitted at preliminary plat review when layouts have to be shown; and that Chatham County Environmental Health Department would do a lot by lot evaluation before issuing any permits.

In closing, Ms. Deloach asked that the developer control potential runoff.

- Cosima Long, 50 West Newman Road

Ms. Long stated that she owns sixteen acres adjacent to this property along Herndon Creek jointly with Robin Dennis who is not present tonight; that she does not have any additional issues other than those expressed above by Ms. Smith, Ms. Deloach and Ms. Weakley; and that, for the record, she continues to be concerned about all of the environmental, traffic, runoff, water quality and major preservation issues.

- John Emerick, 424 Jones Branch Road

Mr. Emerick stated that he and his wife live adjacent to lot #47 on a ten-acre parcel and that he is concerned about:

steepness of the area,  
runoff into Jones Branch Creek, and  
Lystra Road traffic.

At this time, Mr. Emerick asked that Allison Weakley be permitted to speak as his representative.

- Allison Weakley

Wetlands:

Ms. Weakley stated that she has not heard back from Bob Zumwalt (landscape architect for the development who is with The John R. McAdams Company, Inc.) regarding the data she recently sent him concerning wetlands; that Mr. Zumwalt has not discussed wetlands with her at all; that she finds it to be unprofessional to use her data but not follow up with her; that there are numerous upland wetlands on this site; that the parcels marked "D" on the site plan indicate drip irrigation areas; that the majority of these areas are located on these uplands; that water ponds in these areas; and that runoff is already a concern.

Impervious Surface:

Ms. Weakley stated that there has been no indication in this application as to what amount of impervious surface would be generated by this development, that anything over 10% impervious surface degrades a watershed; that the EEP is willing to put money into this watershed to protect it permanently and perpetuity with conservation easements donated by landowners and to pay for survey and real estate transactions; that all other watersheds in the northwest arm of Jordan Lake have been impacted by a large impervious surface; and that this is an important watershed to the State and should be to the County.



Environmental Impact Assessment:

Ms. Weakley stated that an environmental impact assessment would be helpful in determining what the environmental impacts could be; that the Subdivision Regulations allow the Board to request an environmental impact assessment and she urges the Board to do this; that Page #44 of the Chatham County Subdivision Regulations states, "land considered unsuitable for development because of flooding, bad drainage, steep slopes, rock formations and other such features which may endanger health, life, or property, aggravate erosion, or increase flood hazard may not be approved for subdivision unless adequate methods are formulated by the developer for meeting the problems created by subdivision of such land"; that this language gives support to request more information on soils and wetlands that have not been addressed adequately; that S&EC is a reputable company but they missed wetlands and streams on this property as they did with the Booth Mountain subdivision; that streams are currently being bulldozed at Booth Mountain because they were not delineated when S&EC visited that site; and that there have been numerous problems being created by the bulldozing of stream channels at Booth Mountain.

Old Trees on Site:

Ms. Weakley stated concern regarding existing old trees on this site; that the developer initially indicated that these trees would be considered into the plan; that she has not seen any mention or consideration of these old trees; and that page 56 of the Subdivision Regulations, Item C. Community Assets states, "In all subdivisions due regard may be shown for all natural features such as large trees and water courses and for historical spots and similar community assets which, if preserved will add attractiveness and value to the property".

Ms. Weakley encouraged the Board to ask for environmental and economic assessments that would include a traffic study and the impacts on schools (i.e. how many children would be generated from the development and what concessions is the developer willing to give for this number of school children). She stated that she doesn't feel that very serious concerns are being addressed and that she would volunteer her services if requested.

Mr. Eliason voiced concern regarding wetland reports from S&EC and Ms. Weakley and the criteria used. He noted that the Board does not have the ability to evaluate Ms. Weakley's knowledge of wetlands and understanding of the criteria against that of S&EC. Ms. Weakley stated that she has provided this information because it is something that Chatham County can request (more information) to determine what is and is not suitable; that the Corp of Engineers do not have adequate resources including time to oversee everything that happens at county level; that Chatham County should protect its interest and not rely on state and federal Government.

Karen Kemerait stated that this development proposes 8.3% impervious surface. She noted that it is important to consider that the Army Corps of Engineers will have the final determination and that the developer would abide with their decision.

Kevin Martin, NC Licensed Soil Scientist, Professional Wetland Scientist, Soil & Environmental Consultants, PA, was present representing the applicant. Mr. Martin stated three (3) criteria used by the Federal Government regarding wetlands are: 1.) soils, 2.) vegetation, and 3.) hydrology; that he has personally evaluated the areas that Ms. Weakley has determined as having wetlands; that hydrology is supposed to be evaluated within the growing season and during normal precipitation; that we are currently above normal on precipitation and we are not in the growing season; that another issue is that there must be hydric soils; that in the State of North Carolina it is illegal (a misdemeanor) to identify hydric soils unless you are a licensed soil scientist; that he has not seen any information from a licensed soil scientist in the state who believes that hydric soils are present on this site; that if hydric soils are not present then hydrology is not an issue; that he has copies of the State Soil Scientist Licensing Act for review; that he is a member of the Licensing Board for the State of North Carolina and is also a member of the Environmental Management Commission for the State of North Carolina that passes regulations relating to the protection of wetlands; that he has heard about the slanderous accusations against the company that he founded (S&EC); that he has listened to these accusations tonight and is personally affected; that he would review his findings with a peer if requested; but that until Ms. Weakley is licensed as a soils scientist and certified as a wetlands scientist she is not his peer.

- Jo Mar Miller, spoke on behalf of her grandmother who lives on adjacent property at 1304 Lystra Road

Ms. Miller stated that she was not at the December Planning Board meeting; that the house her Grandmother currently occupies is far more than 50 years old; that her Grandmother is 89 years old and has lived in this same house most all her life; and that she is concerned how this development would affect the elderly residents currently living adjacent to this site. Ms. Miller noted that traffic would be very much affected.

- Cosima Long (who spoke earlier) asked if the developers could begin the clearing, cutting and bulldozing process if sketch design is approved this evening.

Ms. Richardson explained that there should be no land disturbing activity until after preliminary plat approval is received from the Board of County Commissioners; that this is after required permits and approvals have been received, i.e. erosion control, NCDOT commercial driveway, road plan, water, etc.; that some developers, once they obtain their erosion control permit, begin grading for roads but take a chance of doing this before preliminary approval is received; that the Subdivision Regulations state that preliminary approval gives the developer permission to begin construction and that sketch does not.

- Shannon Hallman, 1078 Lystra Road

Mr. Hallman asked the definition of language on the survey map that states, "Future Public Right-of-Way Access (Final Location To Be Determined)".

Ms. Richardson explained that if the landowner ever wanted to connect his property to this public road this gives the landowner access to the proposed

public road. She stated that staff requested this; and that according to the Subdivision Regulations the Planning Board has 65 days to review a subdivision application and make a decision, (i.e. the Board would have until February 6, 2007).

Motion to grant approval:

Mr. Mason made a motion; seconded by Mr. McCoy to grant sketch design approval of the request as submitted and as recommended by staff, with the changes shown on the revised sketch plan; and with the following condition:

1. Note # 16 be changed on the preliminary and final plats to read, "No septic systems shall be located within 100 feet of Herndon Creek. No structures shall be located within 200 feet of Herndon Creek.

Discussion among the Board followed.

Ms. Kost thanked Allison Weakley. She stated that it is a real asset to have someone in this county like Ms. Weakley that cares as much as she does and volunteers as much of her time for the interest of Chatham County; and that Ms. Weakley is very concerned about the environment and Jordan Lake. Ms. Kost cited that her comfort level would have increased considerably had the developer done one simple thing – to have walked the land with Ms. Weakley; that Ms. Weakley is not a wetlands expert; that she did walk the land with Ms. Weakley; that she understands why many of the adjacent property owners are concerned about the steepness of the cliff, Herndon Creek, Jones Branch Creek, silt in the creek, and the topography of the land; that she is concerned with the environment; that she is concerned that the topography on the back side of this project is not suitable for this plan; that she would like an environmental assessment done; that she is really distressed about the adjacent property owners and the confusion about this project and what it meant; that she hopes that in the future we do a better job in making things easier for citizens; and that she will be voting against this request.

Mr. Harris stated that he continues to have concerns about traffic and the times and area the traffic analysis report was done.

Mr. Eliason stated that he has mixed concerns; that he agrees with the spirit of the criticisms by members of the Planning Board; that he has confidence in our county soil and erosion officer, wetland experts, soil scientists and Army Corps of Engineers; that technical merits of the project have been met; but that he does have a question about the traffic.

Ms. Cross stated that she values Ms. Weakley's comments and concerns; that Ms. Weakley cares deeply about Chatham County; that she appreciates Mr. Eliason's comments because we do have to have confidence in the different entities within the county, state and federal government that police these things but that we do have to watch them; that we have to hear the concerns of citizens; that we also have to realize that landowners have to be allowed to use their property under guidelines and laws set forth by the county, state and federal

government; and that the decision tonight (what ever the outcome) is going to be with deep commitment.

Mr. McBee stated that this discussion began tonight with five (5) issues of concern: 1.) wildlife corridor, 2.) storm water runoff, 3.) traffic analysis, 4.) historical issue, and 5.) wetlands; that he walked the land using a GPS system that allowed him to download a map of the property; that his review did not show the areas indicated by Ms. Weakley as being wetlands; that this area is zoned for one (1) acre lots; and that the developer has done some things to mitigate these five issues.

Mr. Mason stated that he has to rely on the professionals to do their job; and that the project meets all the requirements at this phase in the process.

Mr. Walker stated that he does not agree with the outlook that Chatham County has no ability other than to say that the applicant has met all the tick marks on the checklist and thus have to approve the request; that Chatham County has the ability to exercise judgment about the suitability of the development potential of a property; and that we do have the ability to say no if deemed unsuitable.

Chairman McBee asked Mr. Megginson to explain the term “unsuitable” as referenced above. Mr. Megginson explained that unsuitable is when land cannot be developed due to physical conditions of the land, i.e. difficult physically that you cannot put a house on the land, you cannot get a septic system to work, and you cannot get access to the land. He stated that environment and erosion may be considered two different things; that just about anything done would adversely impact the environment, i.e. natural features displaced or destroyed if there is development; and that erosion control plans are presented to the erosion control officer that can be permitted and implemented on the ground.

*Vote on Motion:*

The motion passed 7-2-1 with Mason, McCoy, McBee, Wilson, Cross, Eliason, and Nettles voting in favor of the motion; and Kost and Walker voting against; and Harris abstaining.

VI. **ZONING AND ORDINANCE AMENDMENTS – *Item from December 18, 2006 Public Hearing:***

- A. Request by the Chatham County Board of Commissioners for a revision to the Chatham County Moratorium Ordinance to amend Section 7, Exemptions of Ordinance, to remove sketch design from the list of exemptions.

Mr. Megginson stated that these revisions were initiated by the Board of County Commissioners; that since the Planning Board initially considered the Moratorium Ordinance (after the State Legislature made revisions to the Statutes concerning planning legislation this past Summer), the Commissioners wanted input from the Planning Board although the Commissioners initiated the revisions; that Jason Sullivan prepared tonight’s agenda notes and the original ordinance text; that tonight’s agenda notes address the moratorium process (of the State); that some of the new Commissioners had concerns that the language

in our ordinance was not the same as the statutes read; that the statutes reference exempting anything that has been submitted for preliminary or final subdivision review; that after the public hearing on the original Moratorium Ordinance it was noted that our review process is different than other jurisdictions; that we have a more formal (time consuming and expensive) sketch design phase; that the NC Institute of Government informed staff that it would be acceptable (and legitimate) to exempt sketch design applications from any possible moratorium; that this is the way our ordinance is worded – that if you apply for a sketch design prior to a setting of a public hearing for a moratorium you may proceed through the process; that the Board of County Commissioners held a public hearing about excluding the sketch design from this process; and that the revised language (as noted in attachment #1 of tonight's agenda notes) excludes sketch design from this process and leaves preliminary and final as the ones that are exempted. Mr. Megginson noted that Mr. Sullivan has done some review on this (because it was alleged that our process was different than others) and how we might compare.

Mr. Sullivan stated that last week he checked subdivision regulations for the counties of Lee, Moore, Randolph, Wake, and Orange; that generally, Lee, Moore and Randolph County all have a sketch plan that can be submitted voluntarily for staff review; that the developer then proceeds with preliminary plat approval (that is similar to our sketch plan) and possibly a soils analysis are submitted for approval; that each jurisdiction is different as to what authority or who approves the preliminary plan (i.e. the Board of Commissioners approves in Lee County, a Subdivision Review Board (composed of different departments) approves in Moore County, and the Planning Board approves in Randolph County); that between preliminary and final plat Lee, Moore and Randolph County obtain permits from the developer that we require at preliminary plan and the subdivision would be built prior to final plat approval; that Wake County has a preliminary plan review, a construction plan review, and a final plat review and all can be approved by the Planning Director (if denied the developer can appeal to the Planning Board); that Orange County has what is called a concept plan that is considered a sketch plan; that the concept plan requires submittal of a sight analysis map and two different types of development options, i.e. conventional development plan and a flexible development plan, with the option of proceeding with a flexible development option; and that concept, preliminary and final plans are approved by the Board of County Commissioners.

Board discussion followed. It was noted that our sketch design is virtually the same as the preliminary plan addressed in the Moratorium Ordinance passed by the State. Mr. Eliason stated that the intent was to protect that stage of the process (preliminary) where some governmental approval was given to the developer; and that in our process sketch is where this approval is given. Mr. Mason inquired if a public input session was included in any of the above jurisdictions process. Mr. Sullivan stated that he did not recall reading in his research if any of the jurisdictions held a public hearing. Mr. Walker asked (for clarification of the existing ordinance) if the ordinance was approved as required by the state and then last summer sketch was added in; or had no Moratorium Ordinance been approved before the request to add the sketch. Mr. Megginson stated that there was not a Moratorium Ordinance; that the statutes did not

address it; that we have had moratoriums in the past; that we did them the way we thought they should be done; that the state said that we needed to address this since they are being enacted; that there should be set issues addressed if there is going to be a moratorium; and that vested rights is an issue. Mr. Megginson noted that staff thinks it would be fine to leave the existing language in the Moratorium Ordinance without taking the sketch design out. Ms. Kost asked if the basis for that is the investment developers have made to get to the sketch design process. Chairman McBee noted that this is what the ordinance states and Mr. Eliason noted that this was in line with the intent of the state. Mr. Megginson noted that what is called sketch at our phase of review is in many cases preliminary in others. Ms. Kost stated that the Commissioners by ordinance are required to state why there is a moratorium; and that no matter where you are in the process that reason does not go away. Mr. Walker noted that the Moratorium Ordinance states that the applicant can appeal actions of the Board (i.e. Section 10: Remedies).

**Motion/ Second/ and Vote to deny proposed amendment:**

Ms. Cross made a motion; seconded by Mr. Harris to deny the proposed ordinance amendment for omitting sketch design subdivision applications and approvals from the list of exemptions from a moratorium. Ms. Cross noted that the Moratorium Ordinance is sufficient as written. The motion passed 8-2 with Cross, Harris, McBee, Wilson, Eliason, Mason, McCoy and Nettles voting in favor of the motion; and Kost and Walker voting against the motion.

**Items for January 16, 2007 Public Hearing:** Mr. Megginson stated that the upcoming public hearing would be on a Tuesday (January 16, 2007) since Monday is a holiday; that items B - I are scheduled for the public hearing as well as one additional item that is not listed below; that the additional public hearing item is regarding a change to "The Ordinance Establishing A Planning Board" as follows:

- Section 1, Appointment and Compensation, to increase the number of Planning Board members;
  - Section 2, Organizations, Rules, Meetings and Records, to allow the Board of Commissioners to remove Planning Board members without cause;
  - Section 2(l) to make a technical correction; and
  - Section 4, Annual Report of Activities, to revise reporting procedures.
- B. Public hearing to receive citizen input on proposed text amendments to the Chatham County Communications Tower Ordinance to Section 6-5, Remedies. The purpose of the amendment is to change the civil penalty from a flat fee to a graduated scale.
- C. Public hearing to receive citizen input on proposed text amendments to the Chatham County Junkyard Ordinance to Section 9, Enforcement Provisions. The purpose of the amendment is to change the civil penalty from a flat fee to a graduated scale.

- D. Public hearing to receive citizen input on proposed text amendments to the Chatham County Mobile Home Ordinance to Section 19, Penalty For Violations and Section 6.2(A), Mobile Home Lot Size. The purpose of the amendments is to change the civil penalty from a flat fee to a graduated scale and increase the minimum lot size requirements.
- E. Public hearing to receive citizen input on proposed text amendments to the Chatham County Off-Premise Sign Ordinance to Section 107.00, Enforcement. The purpose of the amendment is to change the civil penalty from a flat fee to a graduated scale.
- F. Public hearing to receive citizen input on proposed text amendments to the Chatham County Subdivision Regulations to Section 1.14, Prohibited Acts, Enforcement, and Penalties. The purpose of the amendment is to change the civil penalty from a flat fee to a graduated scale.
- G. Public hearing to receive citizen input on proposed text amendments to the Chatham County Watershed Protection Ordinance to Section 106, Remedies. The purpose of the amendment is to change the civil penalty from a flat fee to a graduated scale.
- H. Public hearing to receive citizen input on proposed text amendments to the Chatham County Zoning Ordinance to Section 19, Penalty For Violations. The purpose of the amendment is to change the civil penalty from a flat fee to a graduated scale.
- I. Public hearing request by the Chatham County Board of Commissioners to receive citizen input on proposed text amendments to the Chatham County Watershed Protection Ordinance. The amendments include the following: amend Section 304, Buffer Areas Required, to increase stream buffer widths along perennial streams, intermittent streams, and unclassified streams countywide and to prohibit additional uses within those buffers; amend Section 501 (C) & (F), Watershed Administrator and Duties Thereof and Section 503 (C), Changes and Amendments to the Watershed Protection Ordinance to correct references to state agencies.

VII. OLD BUSINESS:

VIII. NEW BUSINESS:

- A. Planning Director's Report
  - 1. *Commissioner's Summit*

Mr. Megginson stated that the Commissioners have scheduled their summit meetings for Monday and Tuesday, January 8<sup>th</sup> and 9<sup>th</sup>, 2007; that the Commissioners would begin looking at budget priorities and other issues during these meetings; and that the meetings will probably be held here in this same room (auditorium of the Cooperative Extension Building).

- 2. *Joint Land Use Plan Meeting With Cary*

Mr. Megginson stated that the Commissioners have set the date of Tuesday, February 20<sup>th</sup>, 2007 to have a joint meeting with the Cary Town

Board; that the meeting would be held at North Chatham Elementary School in the multipurpose room beginning at 7:00 p.m.; and that this would be the first time the two Boards have discussed any sort of substance to the Land Use Plan.

B. Planning Board Member's Report  
No reports were submitted.

IX. ADJOURNMENT: There being no further business, the meeting was adjourned at 8:40 p.m.

\_\_\_\_\_  
Mark McBee, Chair

\_\_\_\_\_  
Date

Attest:

\_\_\_\_\_  
Kay Everage, Secretary to the Board

\_\_\_\_\_  
Date