



## Chatham County Planning Board Minutes June 6, 2023

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

<u>Present</u>		<u>Absent</u>
George Lucier, Chair	Jon Spoon, Vice Chair	Norma Hernandez
Clyde Frazier	Shelley Colbert	
Tony Mayer	Amanda Roberson	
Kent Jones	Eric Andrews	
Mary Roodkowsky	Elizabeth Haddix	

### Planning Department

Jason Sullivan, Director, Kim Tyson, Subdivision Administrator, and Dan Garrett, Clerk to the Planning Board.

- I. CALL TO ORDER:  
Chair Lucier called the meeting to order at 6:30 p.m.
- II. DETERMINATION OF QUORUM:  
Chair Lucier stated there was a quorum, 10 members present, Ms. Hernandez was absent.
- III. APPROVAL OF AGENDA:  
Approval of the Agenda – Chair Lucier asked the board members if they were okay with the agenda. The agenda was approved, 10-0, unanimously.
- IV. APPROVAL OF THE MINUTES:  
Consideration of the May 2, 2023, meeting minutes. Minor edits were noted. Motion by Vice-Chair Spoon to approve the May 2, 2023 minutes and second by Ms. Robertson. The May 2, 2023, minutes were approved 10-0, unanimously.
- V. PUBLIC INPUT SESSION:
  - Ms. Anne Kachergis stated she lives at 575 Stone Wall Rd and said she wrote to the Planning Board in January and also spoke to the Board of Commissioners this past winter about a short-term rental development that was approved by the county and is now being built on our narrow private road. Four small homes and one small warehouse will occupy 3.8 acres that was recently purchased on Stone Wall Road by McManaman Properties LLC. The houses are solely for the purpose of short-term rentals, and I do not know what the warehouse will be used for. Stone Wall Road is a small privately maintained road with an 18-foot easement. We do not have a road maintenance agreement, nor do we have a neighborhood covenants. We have a consent judgment filed in 1989 that states commercial activity on our road is not allowed and will not be allowed to

future landowners on Stone Wall Road. Our road currently stays in good shape because of the generosity of our neighbors who contribute to it monetarily and with their labor. My work tonight is to learn your opinion as to whether the zoning ordinance concerning short-term rentals has been followed and if it has, I want to know if the ordinance should be tightened so this doesn't happen again in anyone else's neighborhood in Chatham County. The first phrase of the ordinance I downloaded from the Chatham County website states, "owner occupied bed and breakfast homes with no more than two rooms for rent..." and it goes on. My first point is there is no owner occupancy in these short-term rentals, the owners will reside elsewhere. My neighbors would probably not object to this if the short-term rentals were accompanied by residents that the owners lived in full time because the owners could oversee the activities of their guests. Maybe others at this meeting will address problems that have ensued so far in the building process of the short-term rentals, but at this point I would like to hear from you, the board, first. Does this commercial enterprise meet the definition of short-term rentals defined by your zoning ordinance?

- Chair Lucier stated we can ask the Planning staff to give their opinion on this question, and have these homes been constructed? Ms. Kachergis stated they are being constructed now. Mr. Sullivan stated there is a subdivision of properties on a pre-1975 roadbed, so you can subdivide one tract off a pre-1975 roadbed per year. The prior owners, as part of a division of an estate, subdivided off a tract which was over 3 acres in size and then sold it. Because zoning and watershed in that area allow for 1.5 acre lots, the current property owner when through the minor subdivision processes with Ms. Phillips with the Planning department, they met the pre-1975 roadbed requirements and an attorney provided verification of that. There was nothing to keep the minor subdivision from moving forward. Now they are building two dwelling units per 1.5 acres which is allowed by the regulations. There is one principal dwelling and an accessory dwelling unit on any property in the county, so the current property owner is taking advantage of that. Chair Lucier confirmed that the accessory dwelling unit has to be below 1500 sqft. Mr. Sullivan stated that is correct, and in this situation all the homes are under 1500 sqft. Chair Lucier asked about the septic systems and if there would be four individual septics, or if they were shared. Mr. Sullivan stated he would have to check the permits, but they are all regulated and approved by the Environmental Health department. Chair Lucier stated from the Planning department's perspective this project is completely legal. Mr. Sullivan stated that is correct.
- Chair Lucier stated the county is currently in the process of developing the Unified Development Ordinance (UDO) and we will take a look at that specifically to see if there is some way that can be tightened up to avoid this problem from happening again. Ms. Kachergis stated this is a lot of hardship on our neighborhood, it is basically a little hotel in our private neighborhood on our small private maintained road. Chair Lucier stated we understand, and we will look at this. This can potentially be a problem especially along rural roads that want to stay that way. Mr. Sullivan stated to be clear the Chatham County zoning ordinance does not have a definition for short-term rentals. Ms. Kachergis reread the paragraph from the ordinance about owner occupied bed and breakfasts. Mr. Sullivan stated that is a different use altogether from short-term rental. Chair Lucier stated we have heard you and we as a board will look at that concern with the UDO.
- Mr. Peter Kachergis asked for more clarification between the principal dwelling and the accessory dwelling units. Mr. Sullivan stated you are allowed to have one principal dwelling as the primary dwelling on a piece of property and every lot in Chatham County you are allowed one accessory dwelling unit. The accessory dwelling unit can be not greater than 1500 sqft of heated floor space. We have accessory dwelling units in the county that might be 2500 sqft, but the living space is limited to 1500 sqft and the garage or storage areas that are not heated are not counted. We see this quite a bit in Chatham County. In this situation we have a principal structure and an accessory dwelling unit on the same lot, which is allowed, it would be illegal for staff to not allow that. If someone disagrees with that, they have the right to appeal to the Board of Adjustment. The Board of Adjustment will determine if staff interpreted the ordinance correctly. Mr. Kachergis asked if the

principal dwelling unit had to be different or could it be exactly the same as the accessory dwelling unit. Mr. Sullivan stated the principal structure could be any size and the structures could all be the same as long as the accessory dwelling is no greater than 1500 sqft, it is not uncommon to see that. When it comes to paying the school impact fees they are paying the full amount for the principal unit and the smaller amount for the accessory unit. Mr. Kachergis asked about this oversized building or warehouse that is being built. Mr. Sullivan stated the regulations do not have a minimum square footage on a storage building, they did not apply for a warehouse, but a storage building. This is allowed by right as an accessory use as long as the accessory building meets the required setbacks it is allowed. Mr. Kachergis stated this has really upset the neighbors, people have put up signs, some of the new owners are driving too quickly on the road and it has been disruptive. The Sheriff has been called and it is just boiling over, and the neighbors feel, how can this not be a commercial use. These are four units that are intended for rental, not for owner occupancy, it just feels bad. Chair Lucier stated this is a minor subdivision process and is not something that would come to the Planning Board, but we will look into it as we move forward with the UDO. Mr. Kachergis asked if this could happen again as of right now? Chair Lucier stated yes, as the way our ordinance is written right now, yes it could. There would have to be language added to the ordinance that would prevent this from happening again. We have heard from you, and we will look into this.

- Ms. Amy Munice stated we have recently move here from an area with Airbnb rentals and it is very controversial. We are glad that you have heard us, but as you are planning this UDO will there be forums speaking about the possible new regulations where the community can attend and speak through the lens in which the community sees? We want to make sure this does not happen again. Chair Lucier stated everything that is happening with the UDO is public record and we have open meetings when we review parts of the UDO with our consultants who are working with the county to draft the ordinance. These are reviewed in an open meeting where the public can attend, and we have public input session where the public can speak. Vice-Chair Spoon stated there is also a website called ReCode Chatham that has been created specifically for this process that has all the drafts we have reviewed so far; it also has the capability to receive public comments which are shared with the consultants. The very specific comments that point to the ordinance that you think are troublesome and with potential solutions, that would be a good way to weigh in and could be helpful moving forward. Ms. Munice asked if we do comment, do we get answers back? Vice-Chair Spoon stated we do not have the authority to give instant answers back, we are an advisory board that passes things up to the Board of Commissioners. It is a process, and you will know that you were heard, and those comments were weighed in the decisions that were made.
- Mr. Davis Andrews asked about clarification about the principal dwelling and accessory dwelling units. We have heard about square footage, but is there a requirement of occupancy in the primary unit to make it the primary unit? These are one day at a time rentals, there really is not a primary dwelling unit. Mr. Sullivan stated there is no occupancy requirement or stipulation for a principal dwelling or an accessory unit. Ms. Haddix stated the definition for an accessory structure states, "A detached subordinate structure, the use of which is incidental to that of the principal structure and located on the same lot therewith." And the principal structure definition is, "A structure in which is conducted the principal use of the lot on which it is located." Mr. Sullivan stated the definition for dwelling is, "Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith, except that it does not include any manufactured home, mobile home, or recreational vehicle if used solely for a seasonal vacation purpose." Chair Lucier stated there are limitations for occupancy based on the environmental health issues such as the capacity of the septic system. Mr. Andrews stated then there is no requirement for the primary dwelling to have occupancy. Mr. Sullivan stated we will bring this to the UDO consultants' attention, we would need a short-term rental standard in our regulations to actually

regulate the term limits of the occupancy for the dwelling unit. There is probably some standard language we can look at and see if it will work for our UDO. Chair Lucier stated the way the UDO process works is the consultants who are preparing the UDO submit it to the county through the Planning department and works with the Planning department. We also have a UDO subcommittee out of the Planning Board that goes through the chapters and ultimately makes recommendations to the commissioners on what we like and what we do not like about what the consultants provided to us. There will be some give and take as we go through this process and the expectation that the UDO will be completed in late 2024. Mr. Andrews stated he is thankful there is still time to provide comments for the UDO. Chair Lucier stated it is a complicated process and we have a lot of people to hear from, but we still have a year and a half to go.

## VI. SUBDIVISION ITEMS:

1. Request by Ashton Smith, P.E. on behalf of Gilberto Lopez-Ponce for subdivision **First Plat** review and approval of **Eden Parcels**, consisting of 11 lots on 14.87 acres, located off US 15-501 N (SR-15), parcel 2949 in Baldwin Township.

Ms. Tyson stated the request is for First Plat review and recommendation of Eden Parcels, consisting of 11 lots on 14.87 acres, located off US 15-501 N, S.R. 15. A vicinity map showing the property location is included in the agenda packet. Per the Subdivision Regulations, Section 5.2C(4), a Public Hearing shall be held at the first Planning Board meeting to receive comments on the proposed subdivision. Item (b) states that following the Public Hearing, the Planning Board shall review the proposal, staff recommendation, and public comments and indicate their recommendation for approval, disapproval, or approval subject to modifications. As stated above, the Planning Board has two (2) meetings to act on the proposal.

The Planning Board reviewed this item during their May 2, 2023 meeting and discussion included:

- Clarification of the Stormwater Ordinance 10% Rule
- Stream crossings
- If there are any septic systems inside riparian buffer
- School bus stop on US 15-501 North and why the bus stop isn't within the subdivision, and whether the school bus could enter the subdivision for a bus stop.
- Portions of the current gravel road meander outside the travel way to revert its natural vegetated state.

One adjacent property owner spoke during the public hearing, Mr. Daniel Paxson. Mr. Paxson stated currently only 2 cars use the road with the development, up to 30 cars will be using the road. Mr. Paxson owns the first two lots on the right side of the project and stated pavement of the proposed road will be 35' from the house he owns.

Board members postponed the vote until more information was received on the US 15-501 bus stop and if the bus could go into the subdivision.

Staff contacted Mr. Chris Blice, Chatham County Schools Asst. Superintendent for Operations, to check on the bus stop status for this area. Mr. Blice's email correspondence dated May 5, 2023, states, the buses generally do not go into housing developments unless there is an amenity's location with parking off the thoroughfare. This provides a pathway for the bus to travel outside of the area where the parents park. The school guidelines are directed towards group stops and when Mr. Blice talks with developers, he encourages them to create a group stop at or close to an entrance. Mr. Blice stated there are numerous bus stops on US 15-501 and 64 and this is generally not an issue.

Ms. Tyson stated the Planning Department recommends granting approval of the road names Olive Lane and Eden Parcels Way and granting approval of the First Plat for Eden Parcels with the following conditions:

1. Approval of the First Plat shall be valid for a period of twelve (12) months following the date of approval by the Board of Commissioners and the Construction Plan approval shall be valid for a period of twenty-four (24) months from the date of approval by the Technical Review Committee or Board of Commissioners.
2. The existing travel way currently known as Lanes Legacy which crosses the project shall revert to a natural vegetated state once the new road is constructed.

- Mr. Luke Shealy, a representative for Edan Parcels, stated he is here for any questions and the plat has not changed from the May meeting.

Board Discussion:

- Chair Lucier stated it looks like the school system is not going to go down the road of this development and they have several other stops along Hwy 15/501 from what Mr. Blice stated in his comments. Vice-Chair Spoon stated it seems like our only major concern from the last meeting was receiving clarification on the bus stops along Hwy 15/501 and there were a couple questions about the driveway alignment, but the most important concern was the safety of the bus stop. If this is how the schools handle it, we cannot make the developers do something they are not required to do.
- Ms. Robertson stated she has an issue with the comment from Mr. Blice where he refers to the numerous bus stops along Hwy 64 and Hwy 15/501. These are very busy roads, and we will have a lot more development going on, it is understood there is nothing we can do, and I am not suggesting that we do not recommend approval of this subdivision, but for the record, this is really concerning and is there anything we can do, or the county can do to address this going forward. Chair Lucier stated that is a good point and perhaps we should send a note to the commissioners saying this could be a problem and we are worried about it. Vice-Chair Spoon stated it was interesting to learn how DPI governs statewide how bus stops are handled. Ms. Robertson suggested a letter to DPI as well. Ms. Haddix stated the first sentence in Mr. Blice's e-mail shows the real tell as to what the problem is, the buses are not allowed to go into subdivisions either because there is a time issue with picking up children, or another issue. I am in favor of consulting with the Board of Education or the Board of Commissioners on this issue. Chair Lucier stated we should go through the Board of Commissioners since that is the board we answer to. The commissioners, if they wish to pursue it, should work with the Board of Education. Ms. Haddix stated we are not going to penalize the developer because of the bus stop, but it would be nice to receive a more direct answer to the question. Tell us why you cannot go down the street and what the real problem is so we can work on that issue. There was board discussion on how the school bus routes can be excessively long for the children and how there is a real school bus driver shortage right now.
- Mr. Eric Andrews asked if we could recommend the UDO to have a recommendation for residential subdivisions located on a four-lane highway for the developer to implement a parking area or a turn in lane for the school bus. Vice-Chair Spoon stated we could also add a threshold number of units in which that would make sense to require that, but it is a good recommendation, because if there would be 50 homes in a neighborhood, it would be good to have a place for the bus to stop and pick up the children safely. Mr. Jones asked if there are plans to widen Hwy 15/501? Vice-Chair Spoon stated not right now, the focus is near Sanford right now. Chair Lucier stated that is true, but NCDOT can change their priorities anytime they want. It was agreed upon how dangerous Hwy 15/501 traffic is currently.

Motion made by Vice-Chair Spoon to approve this item, second by Ms. Robertson. This item was approved with a vote of 10-0, unanimously.

2. Request by Chad Abbott, P.E. on behalf of Lovin Spoonful, LLC for subdivision Concept Plan review of Ridgecrest Subdivision, consisting of 28 lots on 49.41 acres, located off Hamlet Chapel Road (SR-1525), parcel 1798 in Baldwin Township.

Ms. Tyson stated the request is for First Plat review and recommendation of Ridgecrest Estates Subdivision, consisting of 28 lots on 49.41 acres, located at the corner SR-1525 (Hamlet's Chapel Road) and SR-1532 (Mann's Chapel Road), parcel 1798. A vicinity map showing the property location. Per the Subdivision Regulations, Section 5.2C(4), a Public Hearing shall be held at the first Planning Board meeting to receive comments on the proposed subdivision. Item (b) states that following the Public Hearing, the Planning Board shall review the proposal, staff recommendation, and public comments and indicate their recommendation for approval, disapproval, or approval subject to modifications. As stated above, the Planning Board has two (2) meetings to act on the proposal.

Ridgecrest Estates First Plat was approved for 30 lots by Chatham County Board of Commissioners on March 21, 2022. From the date of approval, the developer had twelve months to submit construction plans for review and approval by the Technical Review Committee. The developer was unable to submit their Construction Plan application because they did not have enough time to receive the needed permits from the various agencies. The proposed project layout was decreased by two lots, shed encroachments from the Berg property have been resolved, and no proposed stream crossing for septic.

Ridgecrest Estates Drive and Gattis Way Court are proposed to be built with a 20-foot-wide travel way and a 60-foot-wide public right-of-way and is to be state maintained. The applicant contacted Sy Robbins, Chatham County Historical Association (CCHA) on July 22, 2021, via email correspondence. CCHA is unaware of any cemeteries on the proposed project, and it was requested of the developer to notify CCHA if any evidence of graves is discovered. The site location is adjacent to the abandoned Old Hillsboro Road and located in the general area of Pace & Cotton Mill and possible artifacts may be located on the site. If any structures, foundation, wells, etc. it is requested that the applicant notify CCHA. Mr. Robbins stated the Gattis family owned the property approximately 100 years and asked if the developer could name something after the family. Mr. Robbins provided a comment at TRC meeting stating no additional comments to be added.

Notification of the proposed development was provided to the Chatham County School System. Mr. Chris Blice, Chatham County Schools Asst. Superintendent for Operations Officer responded the school system was fine by email dated August 5, 2021.

The developer submitted the General Environmental Documentation and a letter dated August 24, 2021, from North Carolina Department of Natural and Cultural Resources Natural Heritage Program to Chatham County Land & Water Resources Division for review. The letter states "A query of the NCNHP database, indicates that there are no records for rare species, important natural communities, natural areas, and/or conservation/managed areas within the proposed project boundary. Please note that although there may be no documentation of natural heritage elements within the project boundary, it does not imply or confirm their absence; the area may not have been surveyed."

Rachael Thorn, Watershed Protection Director, reviewed the information submitted. Ms. Thorn replied in a letter dated October 19, 2021 that the requirement has been met. Additional comments included any Allowable uses and Allowable with Mitigation uses in the protected riparian buffer will require a Buffer Authorization from Chatham County, all permits with wetland and stream impacts from NC Division of Water Resources and the US Army Corps of Engineers will need to be obtained prior to receiving approval from Chatham County for a Grading Permit and Land Disturbing Permit.

A community meeting was held on April 6, 2023, at the parking lot of Perry Harrison School. Approximately five people attended the meeting and items/issues discussed included:

- The revised layout is welcome.

The TRC met on May 17, 2023, to review the First Plat submittal. The applicant, Chad Abbott, P.E. and Peter Griffin, Developer was present. Items discussed included:

- The Utility Dept. requested the fire hydrant to be located near Lot 25, a fire flow test is needed, and asked what size water line will be proposed. Mr. Abbott sated 8-inch water line.
- The Watershed Protection Dept. had concerns about lots 2-4 not having enough room for homesite, suggested to move the access easement to the stormwater pond to between Lots 1 and 2, and remove the Wilkinson Creek labeling that goes through Lots 14 and 15.
- Road name was approved by Emergency Operations.
- Show cul-de-sac radius on the plat.
- NCDOT stated that in the future they would like to see the rolling terrain design criteria used in this area and they thought the mountainous terrain criteria may have been used.
- Lot 1 septic easement will be located on the Berg property, and this will require Berg to sign the final plat and sign the first plat application.

A soils report and map were submitted to Thomas Boyce, LSS, REHS Environmental Health (now retired) and James Tiger, On Site Wastewater Supervisor, REHS, with Chatham County Environmental Health for review. Mr. Boyce stated the preliminary lot layout met the requirements at this time. Mr. Tiger added that any shared supply line easement must comply with offsite rules including all weather access.

Water will be public and provided by Chatham County Water Dept. for this development.

Parcel 1796 currently has shed encroachment on proposed Lot 28. The developer has worked with the owner of parcel 1796 about the shed encroachment and both agreed to exchange properties. The new lot lines will place the sheds inside parcel 1796 and the sheds will meet the minimum zoning setbacks. The recombination will be completed at the time of filing the final plat. The road names Ridgecrest Estates Drive and Gattis Way Court have been approved by Chatham County Emergency Operations Office as acceptable for submittal to the Board of Commissioners for approval.

Robert Turnbull with Terracon submitted the Riparian Buffer Review Application with a riparian buffer map to Drew Blake, Senior Watershed Specialist, for review. Mr. Blake and Mr. Turnbull completed an on-site riparian buffer review on June 23, 2021 to verify the consultant's findings. Mr. James Lastinger with the U.S. Army Corps of Engineers visited the site on June 1, 2021. Mr. Blake issued a confirmation letter of his findings dated July 20, 2021, confirming four (4) ephemeral streams, four (4) perennial streams, one (1) potential wetland, and one (1) mapped floodplain were identified. The four (4) ephemeral streams require 30-ft buffers, the four (4) perennial streams require 100-ft buffers, and the ten (1) wetland require 50-ft buffers from all sides landward. The Watershed Protection Department requested natural area markers be labeled and placed on the property 30'-50' apart with a minimum of two (2) signs per lot marking the riparian buffer area.

Three stormwater devices are proposed, one stormwater pond on lots 2 &3, and sand filters devices on Lots 13 & 14, and Lots 24 & 25. As part of the stormwater permitting process additional information will be provided to the Watershed Protection Department. A Stormwater Permit and Sedimentation & Erosion Control Permit will be obtained from the Chatham County Watershed Protection Department prior to Construction Plan submittal. No land disturbing activity can commence on the property prior to obtaining Construction Plan approval.

The proposed subdivision meets the adopted riparian buffer and stormwater control standards of the county. The developer also contacted the NC Natural Heritage Program to review their database for any rare species, important natural communities, natural areas, or conservation/managed areas within the project boundary and no rare species were identified in their records. It should be noted that Plan Chatham is not intended to be used as a regulatory tool but is a policy document. When reviewing subdivision applications, the boards can use the plan as a tool to identify future regulatory changes.

Ms. Tyson stated the Planning Department recommends granting approval of the road names Ridgecrest Estates Drive and Gattis Way Court and granting approval of subdivision First Plat for **Ridgecrest Estates** with the following conditions:

1. Approval of the First Plat shall be valid for a period of twelve (12) months following the date of approval by the Board of Commissioners and the Construction Plan approval shall be valid for a period of twenty-four (24) months from the date of approval by the Technical Review Committee or Board of Commissioners.
2. The county attorney shall review and approve the contract and performance guarantee prior to final plat recordation.
3. Property owner(s) of parcel 1796 shall sign the final plat prior to recordation.

Board Discussion:

- Mr. Frazier stated he does not see the septic route for lot 1, do you know why that is? Ms. Tyson stated this septic route might be boring under the road, but Mr. Daniel Fenton with C3 Design stated yes, we will be bored under to get to the off-site septic. There was some discussion about the septic route, and it was determined to add this as a condition for the septic route to be shown on the Plat. Mr. Fenton stated we spent a lot of 2022 working with the Berg family to accommodate their sheds which were encroaching and now they meet setbacks. The design also has reduced two lots for a much better layout than previously approved. During this time our permit had expired, but we hope you see we have made a good will effort to be a good neighbor to the Bergs and a better plan all around and would seek your recommendation for approval.
- Chair Lucier stated he agrees that this is a much better plan than what had been previously provided. It was mentioned during that time this layout would need to have fewer lots because of the stream crossings which created a number of other issues. There was also the issue with the Berg property which apparently you have now straightened out by a land trade with them. We also had an issue with one of the lots that crossed a stream with a driveway which has been addressed. Chair Lucier asked about lot 24, which is an odd shaped lot and has a wetland on it. Is the intention to have the home site close to the cul-de-sac or the area where it bulges out? Mr. Fenton stated the homesite will be near the cul-de-sac and not cross the wetland. Chair Lucier confirmed that there will be six off-site septic locations on 28 lots. Mr. Fenton stated six off-site septic areas are correct and showed the board on the plat where each septic field was located on what lot. Mr. Frazier asked if lot 5A septic area was appropriate soil. It was determined that the plat hatching was difficult to see, but in fact lot 5A septic was appropriate soil.
- Vice-Chair Spoon stated he remembers when we had seen this project before and it is important to mention in the background section of the staff notes, the last two lines indicated that we recommended this project not be approved, but it was approved through an actual vote or by default with no actions by the commissioners. The applicant has clearly addressed and fixed all of the concerns we as a Planning Board had and you worked things out with the Berg family, so this is a better plan and agree with Chair Lucier on what we had saw previously. Chair Lucier stated yes, you have addressed the three major issues I had during the last time this was before us and I did vote against it last time, but it has definitely improved.
- Ms. Colbert stated she had gone back and watched the recorded BOC meeting when they approved this item last year. It was pulled off the consent agenda in order to address the fact that the commissioners had no choice but to approve it, regardless of any other factors were involved in the recommendation of the Planning Board at that point, they were advised by county counsel that they were required to approve it because it had met all the requirements of the ordinance. Vice-Chair Spoon



stated a year later we were able to see a better plan brought before us. Chair Lucier stated that is correct and our past action as a board has been positive.

- Ms. Robertson asked if it is typical to see such diversions of septic routes like from lot 5 all the way up to lot 12? Some of the board members stated it is quite common to see septic routes like this. Ms. Robertson stated she walked the property at the site visit, and it is a beautiful property with a sizable stream and very old large trees, so I took care in reviewing the environmental documentation and the applicant submitted the answer to a question if there is significant natural heritage area within 1 mile of the project site, which was answered yes. In the fourth paragraph of the Natural Heritage Program Report it states, "If a Federally listed species is found within the project area or is indicated within a one-mile radius of the project area, the NCNHP recommends contacting the US Fish and Wildlife Service (USFWS) for guidance." Ms. Robertson asked if in fact the US Fish and Wildlife Service was contacted for guidance and is there anything we can do about that? Mr. Sullivan stated the board could add a condition to encourage the applicant to contact the US Fish and Wildlife Service, it is not a requirement for the applicant to do that, but it is probably a good idea. There was some discussion as to what natural significance could be within 1 mile radius of this project. The Haw River is located about 1.5 miles away.
- Mr. Mayer stated he understands that all the different routing of the off-site septic is legal, but not happy about it because it is an indication of the developer trying to push the envelope on as many lots as possible. Mr. Mayer also stated between lots 24 and 25, at the end of the cul-de-sac it is very close to the intersection for the school, and it will be inevitable that children and or parents will use that as a cut through to go to a playground or the school. I am very concerned about pedestrian safety and connectivity to our neighborhoods and if I were designing this project, I would place a little easement there for pedestrian traffic. A legal way for pedestrians to walk from the cul-de-sac to Hamlets Chapel Road, and once they get to Hamlets Chapel Road they are on their own. Mr. Fenton stated there are no sidewalks on Hamlets Chapel and would not want to encourage pedestrians to walk to it and then they are in a ditch trying to cross the intersection. There was some board discussion about pedestrian safety and the route people would make to get to the school and how a crosswalk would be ideal, but it is ultimately NCDOT that would need to put in a crosswalk at the intersection. Mr. Mayer stated maybe there could be an agreement with the HOA and their covenants for access through lots 24 and 25.
- Ms. Haddix stated with this project and the proximity to the school, who makes this safer for the kids to walk to school? How can we look to the future with new projects close to schools and require sidewalks and crosswalks? Chair Lucier stated if there is not any language in our ordinance, we cannot require it, however this is something we can look at adding to the UDO. Mr. Mayer stated it would be an added benefit to help sell homes too. Ms. Colbert stated there really is no safe way to have access between lots 24 and 25 because it would lead the children to a very busy road with a steep slope which would impair their sight to see traffic. The other route between lots 24 and 23 would require a buffer crossing, so there are not any good options. Mr. Sullivan stated that is a good discussion to have with the consultants and the school system for our UDO.
- Chair Lucier stated to Mr. Fenton that we cannot require you to provide access or crosswalks, but we ask that you go back and discuss this with your team and see what you might be able to do to address these concerns and the safety of the children, as Mr. Mayer stated that might help you sell homes. Mr. Fenton stated they will explore options and a potential crossing to the school to limit the risk to children that might be walking to the school. Chair Lucier stated you may be able to coordinate with NCDOT and the school system.
- Chair Lucier asked about the comment at the TRC meeting from NCDOT stating they would prefer a rolling terrain design, what does that mean? Ms. Tyson stated the developer when designing the plan, apparently, they used the mountains terrain feature rather than the rolling terrain feature when designing the roads. Mr. Sullivan stated he went to the NCDOT website and there are some slight differences between the two feature regarding grading and design standards.

- Mr. Eric Berg, the adjoining property owner of the project, stated he wanted to reenforce what Mr. Fenton had said earlier about working with us. Mr. Abbott and Mr. Griffin have been good to work with and have made this project as close to perfect as they possibly could. We are happy and satisfied with this project now. There was some concern at the community meeting about a neighboring property and the water runoff, we do need to make sure that concern is addressed because we do not want to see their property flooding or collecting more water than it should.
- Chair Lucier asked the board how they would like to move forward. Ms. Colbert stated regardless of what we are asking the developer to look into about pedestrian safety, has all the subdivision requirements been met? Mr. Sullivan stated yes, all requirements have been met.

Mr. Mayer made a motion to approve this item with the following added conditions; the Final Plat shall show septic access to Lot 1 and the developer or representative shall contact the NC Fish and Wildlife Resources Commission and work with the agency with any rare species found within 1 mile of the project. The motion was seconded by Ms. Colbert, and this item was approved with a vote of 9-0, Mr. Andrews was recused.

3. Request by Craig Nursey on behalf of Swain Land & Timber, LLC for a **twelve (12) month extension of First Plat to extend the current first plat expiration date for McBane Park Subdivision from August 16, 2023 to August 16, 2024, consisting of 149 lots,** located off Old Graham Road, S. R. 1520, parcel #85448.

Ms. Tyson stated the deadline for submission of the construction plan is August 16, 2023. The request before the Board is for a twelve-month extension of First Plat approval to extend the first plat expiration date from August 16, 2023, to August 16, 2024. WithersRavenel, representative for Swain Land & Timber, LLC, has stated in the extension request letter, the reason for the extension request is based on permits needed from various agencies. The applicant expresses in the letter dated May 22, 2023, the first round of comments has been issued by the various agencies and the second resubmittals to Chatham County Watershed Protection Department, NCDOT, and Aqua has been submitted. The first review with NCDOT took nearly 3 months and staff turnover with Aqua has delayed reviews. Once approvals by Aqua for water and sewer permits are received, they can then be submitted to the NC Department of Environmental Quality and the approximate turnaround time is 6-8 weeks. There's an uncertainty of the timeframe with the various agencies due to the status of various agencies' staff turnovers and delayed reviews.

Permits are actively being pursued and a twelve-month extension is requested to allow additional time to obtain the required permits in the unforeseen circumstance that permits are not received prior to construction plan deadline on August 16, 2023. It is not anticipated for the permit approvals to take the entire twelve months request.

Ms. Tyson stated the Planning Department does not make recommendations on extension requests as this is a policy decision for the Board of County Commissioners.

- Chair Lucier asked if Chatham County should explore the option to extend the requirements from 12 months to 18 months? Ms. Tyson stated yes, most likely 24 months because some permitting just though Chatham County has been delayed because of staffing issues. Mr. Sullivan stated Planner Hunter Glenn is currently working on the ordinance with changes which will come before the Planning Board after the public hearing.
- Ms. Alicia Albini with WithersRavenel stated Ms. Tyson did a great job on the staff report and as she said we have experienced delays in the permitting process due to staffing shortages. We are actively pursuing the remaining permits that we need and are hoping it will only be a short time before they are received, but we are respectfully requesting this extension just to be on the safe side. For the most part, all of this has been outside of our control. Vice-Chair Spoon confirmed the project did not stall out on

their end, that they have been working continuously from the initial approval but rather the entities issuing the permits and their staffing issues. Ms. Albini stated yes; however, we have experienced staffing shortages and turnover as well, we have had two different project managers, and engineering issues.

- Chair Lucier stated for the new board members this is a conservation subdivision and that is why you see that conservation area with a 200-foot buffer on Dry Creek. There is an appropriate area that was designated for the conservation area and the best part of this land is being preserved.
- Ms. Colbert stated to the developer that you indicated that the construction drawings and permit applications for this subdivision have been prepared by WithersRavenel and submitted to Chatham County Watershed Protection department, NCDOT, and Aqua for review, what were the original dates those applications were submitted to those agencies? Ms. Albini stated they submitted to NCDOT and Chatham County in January of 2023 and we submitted to Aqua in August of 2022. Ms. Colbert asked what day it is in January. Ms. Albini stated it was January 27<sup>th</sup> 2023. Ms. Colbert asked if there was anything preventing them from submitting sooner than that and how was it out of your control? Ms. Albini stated, as I had mentioned, WithersRavenel has also experienced staffing shortages and turnovers. We are actively looking for project managers, designers, and engineers. It is all hands-on deck for active recruitment, but it has proven to be difficult in this current climate we are in to obtain adequate personnel and staffing. Ms. Colbert stated it appears that the bulk of the delays are an internal problem and not that of the different agencies. Ms. Albini stated the permitting process itself is experiencing a three-month turnaround time just with NCDOT which would normally only take three to four weeks, none of the permits have gone quickly.
- Ms. Roodkowsky asked if we as a board need to make a motion to extend the permitting process, so we don't see a backlog of all these subdivisions that were already approved. Chair Lucier stated staff is currently working on that and will be before the commissioners at a public hearing soon and then we as the Planning Board will discuss and make a recommendation on it. Vice-Chair Spoon stated we will just have to deal with the subdivisions that may come before us before that can be approved.
- Vice-Chair Spoon stated this conservation subdivision is an ideal project for this type of neighborhood because where the home sites will be located is largely timber land with 15-year-old pine trees that have been replanted and not much ecological significance, but that back portion of the property is beautiful old hardwood forest. Out of all the conservation subdivision submittals we have seen before us this applicant had done the best job preserving the part of the property that was the most ecologically significant. Chair Lucier also stated because of our discussions as a Planning Board the applicant agreed to place a 200-foot buffer around Dry Creek. Mr. Mayer asked when this subdivision was before the board the first time, was it approved unanimously? Chair Lucier stated he could not recall if it was a unanimous vote to approve, but if it was not, it was close. Vice-Chair Spoon stated they were in full compliance with all of the conservation subdivision ordinance. Chair Lucier added that they worked with us as well to modify the site plan to extend the buffer on Dry Creek and adjust some of the stormwater ponds. Mr. Mayer stated he is glad that all the hard woods will be preserved in the conservation area.
- Ms. Colbert stated she was unhappy with the way this extension request was presented in terms of what was submitted from the applicant because as far as I saw their acknowledgement in the document that the applicant themselves are also responsible for some of the delays. Ms. Colbert stated the reason she brings this up is because she is tired of seeing some of these agencies being a scapegoat for things that they are not entirely responsible for. When there are statements made like "unavoidable situations", we need to take a look at when these documents were originally submitted because as we see more and more of these extensions down the line if the applicant themselves have been procrastinating and not taking advantage of the time they have been given and then at the last minute asks for an extension, this is something we need to consider because we take a look at some of the constraints of the public agencies will be working under for the foreseeable future. The idea of blame

shifting or scapegoating of these public agencies does not go over well with me because very clearly in this case, they may have delays, but when I go to the airport to catch a flight I plan accordingly because I know that I need to allow time to go through TSA and security, the big part of my success in doing so is to arrive early and meet the requirements to get to that plane, and this is a similar situation. As we look to the future, one of the things I would ask you as a board is to look and see if there was a delay in the initial submission. When this item has a motion, my plan is to vote against the extension, in this particular case and for those who are inclined to approve the extension, twelve months is too long, six months would be a better timeframe.

- Vice-Chair Spoon stated what we have heard is the timelines have changed, what used to get completed and approved within 6 to 8 months has now doubled within the past two years. This is what we have seen and will be a continuing trend for at least the next few months. [During the pandemic and the State mandate, the county was not enforcing 12 month timelines like we had before the Covid-19 pandemic] Ms. Colbert stated she had looked and there have been four extension requests in the past two years. Vice-Chair Spoon stated we could be seeing a lot more. Chair Lucier stated he remembers all of the extension requests and part of it is if someone wants an extension and they had problems with the initial approval of the project, then we as a board can vote no we are not going to extend it, but that can potentially create another problem, such as requiring the applicant to rush to complete something at the last minute for a permit, it could create unintended consequences and part of the extension process we can discuss making changes to the project that could make it a better neighborhood. We have to be careful if we do in fact deny an extension, they are not all alike, and if someone has a reasonable application, a reasonable request for development that the people generally like and believe it is a good project for the county, then why deny an extension if there is some legitimacy to the extension. Chair Lucier stated it is Ms. Colbert's argument that in this case it is not a legitimate argument, and the fault lies in their hands, but you made a good point a lot of the fault may lie in their hands, but not all of it. A lot of it is because of the slowness of the permitting process, it does take longer to get through NCDEQ it does take longer to sometimes get through Chatham County permitting, so in my mind this is a legitimate request that I will support.
- Ms. Haddix asked what harm would happen in a delay? Mr. Sullivan stated in this particular development the conservation subdivision guidelines have changed significantly and would have dramatic impacts on part of this layout which could end up in a loss of preservation to the highest quality because of the changes that were made. Ms. Haddix said as a conservation aspect it would be wise of us to approve this extension. Mr. Sullivan said that is correct and if this extension were to be denied all of their permits so far would be void.

Ms. Haddix made a motion to approve this extension request, seconded by Ms. Roodkowsky. This item passed with a vote of 8-1, Ms. Colbert opposed, and Mr. Andrews was recused.

- Mr. Andrews stated in his professional experience we are going to see more of these extensions and there is an amazing gridlock throughout some of the regulatory agencies and the professional agencies that assist in the permitting process.

## VII. NEW BUSINESS:

## VIII. BOARD MEMBERS ITEMS:

### 1. Update from the Planning Board liaisons.

- Ms. Robertson stated she had been to the Pittsboro Planning Board meeting, and the big discussion was the Small Area Plan for the North Village. Chatham Park came out with amendment version number 3 and was before the towns Planning Board. Chuck Smith had indicated the reason

for the amendment is because UNC has a hospital they would like to build, and they have changed the location for that causing the required changes. They have also increased a substantial amount of residential dwelling units in place of office space. The demand for office space after Covid-19 has diminished, but there is more demand for restaurants and amenities. They also discussed a proposal of this road that used to be called Eubanks, it will have a sidewalk on one side and a 10-foot path on the other right next to the Haw River. There was a lot of community outreach about this in opposition. The Planning Board did not make a motion to move the items to the commissioners, they are going to wait and take more time to review the comments from the public and take a closer look at some of these changes that have been recommended. The Planning Board meetings will no longer be the first Monday of the month, but now the third Monday and will be in-person meetings.

- Ms. Colbert stated Ms. Hernandez will be attending the July Siler City meeting and I will be in attendance at their June meeting and will report back with that meeting information.
- Chair Lucier asked Mr. Sullivan if he had heard anything else about Senate Bill 675 that would take away the ETJ of Siler City and Pittsboro and every municipality in the state of North Carolina. Mr. Sullivan stated the third edition has just been released today and it is still moving forward. It will be a huge impact and serious consequences if this in fact is passed and the ETJ's were removed from the municipalities. We will have to keep an eye on it and see what happens. Mr. Andrews stated the reason why this Bill has momentum to move forward is because people who have property under the ETJ but are not within the municipality have no voting rights, no representation. However, a lot of interesting points were brought up by Mr. Sullivan and how this could have huge impacts.
- Vice-Chair Spoon stated the Planning Board UDO subcommittee does not have any new material from the consultants, they are currently working on the design standards chapter, which is going to be an in depth, very specific chapter. Once we have some of that to work on, we will schedule a meeting and add Ms. Haddix to the UDO subcommittee.
- Chair Lucier stated at the June 5<sup>th</sup> BOC meeting there was a comment about Bynum and getting placed on the National Historic Register. There is a group of people working on making that happen and apparently the chances of it happening are pretty good. The process is not quick, it could take up to a year or two to complete. The presentation was given by Ms. Susan Crate who lives in Bynum wanted to incorporate protections for places that are on the National Historic Register within the UDO as it is drafted.

2. Discuss and decide the July Planning Board meeting location.

- The Board discussed and agreed the July meeting will be held in person at the Agriculture and Conference Center.

IX. PLANNING DIRECTOR'S REPORTS:

Mr. Sullivan reported on the following:

1. Minor Subdivision spreadsheet
2. Unified Development Ordinance Update
  - Mr. Sullivan stated the UDO work is continuing to move forward. Currently, the consultant team is working with staff on navigating the environmental regulations and also having early discussions around topics such as tree protection, open space, and subdivisions. The consultant team is going to discuss some of the topics I've mentioned and provide feedback about what they think should be brought before the UDO subcommittee to gather feedback. Once Chance hears back from the consultant team,

he will reach out to Jon to prepare for a meeting. Additionally, short term rentals were a popular subject for public input at the meeting this evening and Chance will discuss with the consultant team what we can do surrounding that topic within the UDO. If you have any questions, then please feel free to email Mr. Mullis.

3. Moncure Site Area Update

- Mr. Sullivan stated the community open house on May 24th presenting the scenario options was a great meeting that provided a thorough presentation and a deeper dive into the scenario options and what they mean. We eventually will end up with a hybrid scenario that will be a blend of all of them. The community also had a survey shared with them that also has shown to be very informative. Most recently, the Plan Moncure consultant team presented an update to the BOC last night that included a recap from the May 24th open house, an overview of the scenario options, and a discussion about any questions they had about the scenarios and any input they wanted to offer. The BOC was very positive about the work that the consultant team had done thus far for Plan Moncure and will be having one on one sessions in July to dive deeper into getting to a preferred scenario. The consultant team anticipate coming back before the community with a preferred scenario in August and presenting to the Planning Board as well. Please continue to remain engaged with the website and all the latest Plan Moncure scenario information is available under the Plan Moncure Documents tab. Please reach out to Mr. Mullis with any questions.
- Chair Lucier stated we will most likely need to schedule a special meeting just to discuss the Small Area Plan. Ms. Colbert stated she has a trip planned around that time and if it is possible to have the special meeting as a remote meeting so she can attend. Chair Lucier stated we will discuss that as we approach that time, but we will be sure to accommodate the best we can.
- Mr. Sullivan stated Mr. Frazier sent an e-mail about the US Supreme Court decision regarding wetlands. It is basically revolving around relatively permanent body of water connected to traditional interstate navigable waters. Whatever “relatively permanent” means, is that an intermittent stream. This will need to be discussed at the federal level, then the state, and then what we can do at the local level and if we will need to make any changes to our ordinance.

X. ADJOURNMENT:

There being no further business, the meeting adjourned at 8:30 p.m.

Signed: \_\_\_\_\_ / \_\_\_\_\_  
George Lucier, Chair Date

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