

CHATHAM COUNTY PLANNING BOARD
MINUTES
April 3, 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:

Chris Walker, Interim Chair
Sally Kost, Interim Vice-Chair
Evelyn Cross
Karl Ernst
Barbara Ford
Clyde Harris
Jim Hinkley
David Klarmann
Judy Sharman
Delcenia Turner

Absent:

Warren Glick

Planning Department:

Keith Megginson, Planning Director
Jason Sullivan, Assistant Planning Director
Lynn Richardson, Subdivision Administrator
Angela Birchett, Zoning Administrator
Kay Everage, Clerk to the Board

- I. CALL TO ORDER: Chairman Walker called the meeting to order at 6:00 p.m.

- II. APPROVAL OF AGENDA: Mr. Hinkley asked that discussion of the Planning Department budget [Item X. New Business, 2.] be moved up on the agenda for earlier discussion. Mr. Hinkley made a motion; seconded by Ms. Kost to approve tonight's agenda as submitted with a revision that discussion of the Planning Department budget be moved to Item VIII. B. There was no discussion on the motion and the motion passed 8-2 with all Board members present voting in favor of the motion except Ms. Cross and Mr. Ernst, who voted against.

- III. CONSENT AGENDA: Chairman Walker noted one correction to the minutes that has been revised as follows:
 - Page 47, last paragraph: That the time to request an environmental impact statement is at ~~preliminary plat submittal~~ sketch design review to be presented at preliminary plat submittal [as indicated in Section 5.2 A. (1) of the Subdivision Regulations].

Ms. Cross made a motion; seconded by Mr. Harris to approve the consent agenda as submitted with the revision to the minutes as noted above. There was no discussion on the motion and the motion passed unanimously.

- A. Minutes:
Consideration of a request for approval of Board minutes for March 6, 2007 Planning Board meeting.
- B. Final Plat Approval: Request by MAC Development Company for subdivision final plat approval of Cedar Grove Subdivision, Phase V, consisting of 7 lots on 23 acres, located off SR-1540, Jones Ferry Road, Baldwin Township.

End Consent Agenda

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

- Peter Theye, 1065 Booth Hill Road

Mr. Theye stated that he would also be speaking later tonight regarding the Lystra Road Subdivision request; that a lot of habitat has been destroyed in the Westfall Subdivision (fka Booth Mountain) by the construction process and he is concerned about the surveys that were never performed during the right time of the year; that he hopes that the contractor is held to pay for the damage that has been done to that property; that he is concerned with stream buffers and where they are measured (i.e. from the top of the bank or center of the stream); and that the contractor of Westfall has encroached heavily on Herndon Creek.

No other citizens spoke at this time.

V. STAFF PRESENTATION OF SUBDIVISION REVIEW PROCEDURE:

Mr. Megginson gave a brief explanation of the three step subdivision review process (i.e. sketch, preliminary, and final approval). He stated that the idea behind subdivision approval is that the land is already zoned for a certain density of use, i.e. 1, 2 or 5 acres; that the general idea of the subdivision process is to see if the land is suitable and can be developed for the proposed residential use; that a general paper map (with a soils survey done by a soil scientist) is submitted with the first step of sketch design; that the map is reviewed by a soil scientist with the Environmental Health Department for approval; that no other agency review is due at this point; that sketch design application goes before the Planning Board and then on to the County Commissioners for approval; that preliminary plat submittal involves various approvals from other agencies, i.e. NCDOT for road plans and driveway permits onto existing State roads, more detail soil survey done by a private consultant and reviewed by Chatham County Health Department, erosion control plans reviewed by Chatham County Erosion Control Officer, permits from the Army Corps of Engineers, Division of Water Quality; that after review, the Planning Board sends a recommendation to the County Commissioners; that if preliminary is approved by the Commissioners then construction can begin; that the developer provides the county a financial guarantee in order to finish the project if the developer defaults; and then final plat is approved or denied by the Commissioners; that notification letters are sent adjacent landowners at sketch and preliminary submittals informing them of the potential development; and that landowners are encouraged to attend the Planning Board meetings to voice their comments and/or concerns.

VI. SKETCH DESIGN APPROVAL:

- A. Request by S & S Partnership for subdivision sketch design review of "Larkspur", consisting of 27 lots on 46 acres, located off S. R. 1526, Andrews Store Road, and Baldwin Township

Chairman Walker stated that the Board would not be discussing the Larkspur subdivision application (Item A. above) tonight since the applicant has withdrawn the request at this time.

Chairman Walker stated that due to the number of issues remaining on tonight's agenda, it would be necessary to limit speakers to 2-3 minutes each.

- B. Request by Mike Hubbard for subdivision sketch design approval of "Hubbard Properties, Inc (Lot C)", consisting of 1 lot of 5.2 acres (4th lot on a private easement), located off SR 1712, East Cotton Road, Baldwin Township.

Ms. Richardson reviewed the agenda notes for this request. She stated that staff recommends that the existing easement be improved from East Cotton Road (SR 1712) to the beginning of lot C1; and that Mr. Hubbard plans to speak to the Board about possibly not extending the easement this far. Ms. Richardson reviewed the three (3) recommendations of staff as noted in tonight's agenda notes.

Mike Hubbard, applicant, was present. Mr. Hubbard requested that the road improvement not be extended to where his property begins. He stated that the intent of the regulations is that the road be improved to the point where the fourth lot would actually use the road.

Alfred Perry, adjacent landowner (lot #2), voiced concern that the easement would affect his property. Mr. Hubbard stated that the road has existed since the mid 1960's.

Board discussion followed. Ms. Richardson noted that lots on this easement could not be further subdivided and that it is up to the discretion of the Board as to how far the developer is required to bring the road up to standard. Ms. Richardson noted that it is reasonable request to say that the portion of the road that serves four (4) lots is the portion that should be improved since the balance of the road is only serving three (3) lots. Mr. Hinkley inquired about commercial / residential driveway permits. Ms. Richardson explained that residential driveway permits are not required.

Alfred Perry stated concern that if Whisper Lane is widened by four (4) feet it would affect the western portion of his property; that he does not want the extension to encroach his property line; and that he does not have any intention of ever using the easement. Ms. Richardson explained that the improvement would be within the recorded easement as shown on the plat map.

Mr. Harris made a motion; seconded by Ms. Cross to grant the request for the fourth (4th) lot on Whisper Lane as submitted and as recommended by staff; with revision to condition #1 regarding the distance of the easement improvement (as

noted below in condition #1). There was not discussion on the motion and the motion passed 8 – 2 with all Board members voting in favor of the motion, except Hinkley and Klarmann who voted against.

The three (3) conditions are:

1. The easement shall be improved from East Cotton Road, SR-1712, to just beyond the driveway entrance to the New Hope Veterinary clinic to a 16 foot wide travel way with four (4) inches of crush and run stone.
2. The applicant shall obtain a commercial driveway permit from NCDOT or a letter stating no permit is required.
3. The Chatham County Subdivision Administrator is allowed to review and approve the final plat once the road improvements have been completed and certified per the Subdivision Regulations, and staff has received a copy of the NCDOT commercial driveway permit or a letter stating no permit is required.

Mr. Hinkley stated that he is hopeful that there is some resolution between Mr. Perry and Mr. Hubbard regarding their disagreement. Mr. Perry stated that he should have been contacted by the developer about his intentions before receiving the notification letter from the Planning Department.

- C. Request by Chatham Landholdings, LLC for sketch design approval of **“Terrell’s Ridge Subdivision”**, consisting of 106 lots, on 206 acres, located off SR-1540, Jones Ferry Road, Baldwin Township.

Ms. Richardson reviewed the agenda notes for this request. She distributed a hand-out from Mr. Walter Durham titled, “Input Regarding Proposed Terrell’s Ridge Subdivision”. (Note: A copy of Mr. Durham’s comments is filed in the Planning Department.) She stated that Mr. Durham would be addressing some of his concerns later in this discussion.

Nick Robinson, attorney, was present representing the applicant. He stated that Gray Styers was unable to attend tonight’s meeting due to a family obligation. Mr. Robinson stated that since last month’s Planning Board meeting nine (9) Planning Board members have visited this property; that during this time period a cemetery was discovered and has been addressed; that the developer has agreed to 100 foot buffers on each side of all streams; that lots average 1.33 acres each; that some floodable areas along Terrell’s Creek would be dedicated and preserved for open spaces; and that the expansion of the buffers from 50 to 100 feet is equivalent to approximately seven (7) lots. Mr. Robinson asked if it is prudent or appropriate to require a right-of-way connection to Mr. Durham’s property located only partially in Chatham County. (i.e. approx. 25-28 acres in Chatham County and the balance of approximately 200 acres located in Orange County with frontage on a public road.) He stated that there are properties being held by other Durham family members of approximately 600 acres that combined could be developed with approximately 300 lots; that said right-of-way could increase unnecessary congestion by potentially allowing traffic of four (4) times as many vehicles; and that if it is not a requirement to provide the right-of-way

although staff has recommended it. Mr. Robinson referenced language from the Subdivision Regulations regarding providing connectivity to other properties that states, "When necessary to provide public street access to adjoining landlocked property (which the Durham land is not) or connectivity to large tracts for future development potential proposed public streets shall be extended by dedication of right-of-way to the boundary of such property". He cited that if the Board is inclined to require the connection (that he requests not be done) then he asks that the Board adopt the language that staff has recommended (as stated in condition #1 in tonight's agenda notes). Mr. Robinson noted that the ordinances requirements have been met and he asks that the Board approve this very conscientious sketch design.

Tom Dunnigan, Chatham Landholdings, LLC, was present. Mr. Dunnigan addressed buffering.

The following adjacent landowners spoke:

- Walter Durham, 715 White Cross Road

Mr. Durham stated that the proposal is overwhelming; that his 24 acres in Chatham County would become virtually landlocked; that his brother has 200 acres and he has 300 acres just over the Chatham County line in Orange County; that Orange County is one of the toughest counties in the State to have a development.

- Dale Morter, 615 Beaver Dam Road

Mr. Morter stated that it is clear that development is happening and cannot be stopped but that he would like to see it slowed down somewhat; that along Beaver Dam Road the lots are five acre minimum that protects the rural nature of Chatham County; and that his major concern is water.

- Carolyn Wilson, daughter of Jane Williams
830 White Cross Road

Ms. Wilson stated that she was present representing her mother, Jane Williams who is an adjoining property owner. Some specific concerns noted were:

- environment
- high density subdivision
- sewage sediment getting into creek
- community septic system
- unsuitable use of land
- private rural forest, and
- urban sprawl.

(Note: A copy of Ms. Wilson's comments is on file in the Planning Department.)

- Timothy A. Smith, Engineer, P.E., Philip Post & Associates, Inc., Chapel Hill, NC, on behalf of Mr. Walter Durham

Mr. Smith stated that he is present representing Walter Durham with respect to the common line between the development and Mr. Durham's property; that he has analyzed the proposed plan and had investigated the proposed right-of-way; that he has submitted his comments (see attachment #5 in tonight's agenda notes); that it is his opinion that this is not the best location to have the future right-of-way; that the location is extremely close to the steep banks of the creek;

that the proposed location would not be very feasible; that he is working with Mr. Durham to negotiate with the developers to relocate the future right-of-way; and that he asks that the Board allow time to continue the negotiations.

- Pete Rubinas, 232 Cedar Grove Rd.

Mr. Rubinas stated that he is speaking tonight as representative of 11 of the 18 current households in Cedar Grove Subdivision who recently met to discuss this potential development and its impacts on their community. Some of their concerns are listed as follows:

- development should be planned carefully
- Planning Board and Board of Commissioners to exercise authority to ensure that the public interest is served with this development
- study traffic impact and safety on Jones Ferry Road - accidents would increase and the level of traffic would have a negative impact on the rural character of the area
- additional schools would be needed
- water supply (i.e. future problems, effective monitoring)

Mr. Rubinas asked that the Board take the time and steps necessary to make sure that this proposed development would not be a negative impact on this small area of the county.

- Cathy Jones, 1061 White Cross Rd.

Ms. Jones stated that this is the time to request an environmental impact study. Some of her concerns were:

- protection of the waterways
- right-of-way at end of drive going into Leake property
- subsurface irrigation – wastewater treatment
- slopes from 65ft. over 200 ft. drop / 40 ft over 100 ft. drop

Ms. Jones noted that the adjacent Harris property of 45 acres has not been discussed regarding potential development.

- Vernon Davis, 127 Birnhamwood Dr.

Mr. Davis stated that he lives just west of the proposed property and that he is a licensed sub-service operator. Some of his concerns were:

- damage from septic systems
- fire protection
- spotty and rocky soils
- testing of existing wells
- cemetery on property
- stream setbacks
- runoff
- impervious surface

Mr. Davis was interested in knowing what type of alternative septic system is proposed.

- Don Rayno, spoke representing Walter Durham

Mr. Rayno stated concerns regarding:

- septic area #5 – very steep location
- runoff
- not environmentally friendly proposal
- treatment of waste – unresolved

Mr. Rayno cited that his recommendation is to request a careful detailed environmental review by a certified governmental body to look at the environmental impacts. Note: A copy of the following material is filed in the Planning Department:

“Input Regarding Proposed Terrell’s Ridge Subdivision
By Walter Durham, adjacent property owner
Presenter: Don Rayno”.

- Becky Crabtree, Jones Ferry Road, owner of Frosty’s Trading Post
Ms. Crabtree stated that Mr. Dunnigan has been a good neighbor to everyone in the community as far as holding meetings and informing the citizens of his proposal; that some of this property belonged to her grandparents and is special to her; that growth is inevitable and she feels that this development would be attractive; that the development would be beneficial to the community, workers and local businesses; and that she asks that the Board consider approving the plan.

- Gloria Ripperton
Ms. Ripperton stated that she owns approximately 100 acres that surrounds this property; that she originally owned 100 acres in the center of this project; that she is in favor of the subdivision; that she has lived on her land for forty years; that she has known Mr. Dunnigan for approximately two years and that Mr. Dunnigan is an honest person (who is good for his word); that there is a water point and fire system on her property; that there are no major creeks on the property; that it is incredible that Mr. Dunnigan has agreed to put 100 foot buffers on the small creeks; that the developer has provided a good design that she is happy to be in the middle of it.

- Raymond Mann, 418 White Cross Rd.
Mr. Mann stated that additional traffic along Jones Ferry Road is a major concern.

No other landowners spoke at this time.

Motion to approve:

Ms. Cross made a motion; seconded by Mr. Harris to grant approval of the request as submitted and as recommended by the Planning Department staff. Discussion followed regarding waste water treatment system.

Mr. Dunnigan stated that a utility company (Aqua America or Carolina Water) would be responsible for the system.

Dave Philbrook, Chatham Landholdings, LLC stated that there would be site specific tests done on the community waste water (i.e. each field would be tested to determine what type of application rate it can handle); that there would not be any digging of trenches in this area; that this is a sub-surface application; that several of these systems are currently utilized throughout North Carolina; that each of the five (5) drain fields would have a pre-treatment module (removes most of the soluble organics); and that the systems are checked at least monthly with most systems being checked daily.

Mr. Robinson stated that treated waste water is put into the septic field; that this is a significantly different type system; that there would be a considerable amount of State regulatory investment in this project; and that it would be inappropriate to assume the worst about this system at this time.

Board discussion followed. Mr. Klarmann stated that lot lines would likely change with the installation of the conventional septic fields, stream and line buffers. Ms. Kost stated that she understands that there are still negotiations regarding the right-of-way position for the Durham property; that given another month this could perhaps be resolved; and that her preference would be to not approve this request tonight but to table it until next month's Planning Board meeting. Mr. Hinkley expressed a desire to discuss this request in detail tonight while it is fresh on Board member's mind. He stated that he has visited the proposed site three (3) times with the developer. Ms. Ford voiced concern about, 1.) steepness of the area proposed for the five (5) community subsurface systems, 2.) proposed placement of the right-of-way, and 3.) need for an environmental impact study. Mr. Hinkley stated that he has tremendous concern regarding the very steep terrain area for the proposed septic systems. Ms. Turner also stated concern about the steepness of the area. She stated that during a recent visit to the site it was noted (by the chairman of the Environmental Assessment Board) that the lots proposed for the septic systems were not adequate because of the steepness of the slopes and that the lots would need to be expanded.

Vote on the above motion by Ms. Cross to approve the request:

The motion failed 3-7 with Cross, Harris, and Ernst voting in favor of the motion; and Walker, Kost, Ford, Hinkley, Klarmann, Sharman and Turner voting against.

Motion to require an environmental impact assessment:

Ms. Ford made a motion to require an environmental impact assessment study. Mr. Hinkley seconded the motion. Discussion followed. Mr. Megginson explained that the county currently does not have the State required threshold criteria in our ordinance to ask for an environmental assessment; that we are on a vulnerable legal situation to require one at this time.

Ms. Ford noted that serious concerns have been stated not only about the terrain but also because this is a very experimental septic system that is being proposed; and that she thinks an environmental assessment is required with this request.

Commissioner Lucier stated that the Subdivision Regulations [Section 5.2 A. (1)], state that the time to request an environmental impact statement is at sketch design review to be presented at preliminary plat submittal; that it would require approving sketch design with a condition for an environmental impact assessment; that language in the Subdivision Regulations is somewhat confusing; that 1.) an environmental assessment needs to identify all potential negative environmental impact of the proposed development, and 2.) to propose mitigation steps to prevent those potential negative impacts from happening; and that the Planning Board (as an advisory Board) may recommend as they wish.

Mr. Robinson asked if the Board could take a five-minute break at this time so that he could confer with the applicants.

5-Minute Break: At this time, Chairman Walker called a 5 minute break.

Ms. Ford clarified her motion stated above (and seconded by Mr. Hinkley) to require an environmental impact assessment. Ms. Ford stated that she is concerned that, after the request is approved with the recommendation that an environmental impact assessment is done, and the assessment is presented at preliminary plat submittal, what can the Board do with that information at that point; and that it is her understanding that the Environmental Review Board is a peer review for the assessment. Mr. Megginson stated that this could happen since the Board has 60 days to review preliminary.

Commissioner Lucier stated that when the Environmental Review Board was formed the Commissioners stated in that formation that the Environmental Review Board would, in the approval process, 1.) establish and define the minimum standards for requiring an environmental impact statement, and 2.) provide the peer review; that the Planning Board would have access to the peer review; and that the Planning Board would provide the Commissioners with recommendations.

Board discussion followed. Mr. Hinkley stated that the logical time to do an environmental impact statement or assessment would be prior to preliminary. Mr. Megginson stated that the ordinance has not been changed to provide for that at this time. Chairman Walker stated that two main concerns with this project are 1.) environmental issues, and 2.) the easement question.

Mr. Robinson stated that after consulting with the developer during the break he proposes the following:

1. Environmental Impact Assessment: The developer would agree to do an environmental impact assessment for this project that would answer many of the questions of the landowners.
2. Right-of-Way: Request approval with staff recommendations with an addition that the developer would agree to negotiate with the adjacent landowner (as they request) about the location.

Mr. Megginson explained the difference between an environmental impact statement (study) and an environmental impact assessment. He stated that the assessment would be done first and is geared towards a State review; that the assessment is routed through State agencies (forestry, archeology and etc.) to determine if the applicant is correct in that there is a finding of no significant impact; that if a finding of no significant impact cannot be made then an environmental statement is done; and that the environmental statement is more involved in looking at alternatives to doing what is proposed to be done. Mr. Megginson noted that the Board of County Commissioners has the power to amend the ordinances (after a public hearing has been held).

Motion withdrawn:

Ms. Ford withdrew her above motion. She stated that the process requires sketch approval in order to request an environmental impact assessment.

Motion to approve with additional condition:

Ms. Ford made a motion to grant sketch design approval as submitted and as recommended by staff with an additional condition (#2) that an environmental impact assessment be required that focuses on the issues that were raised about the community septic and well; and that a slope analysis be done that shows more completely especially around the proposed septic system areas; and that there be negotiations between the developer and Mr. Durham to revise the location of the right-of-way. Mr. Hinkley seconded the motion. There was no discussion on the motion and the motion passed unanimously.

The two (2) conditions are as follows:

1. Access to the Walter & Linda Durham Property, Parcel ID #81371, shall be shown on the preliminary and final plats in a location suitable for construction of a state maintained roadway and labeled as 'dedication of future public right-of-way'. Said access shall be available contingent upon the Durham property providing public state maintained road through access to White Cross Road in Orange County. The applicant shall negotiate with Mr. Durham about the location of the public road access.
 2. An Environmental Assessment to focus on the community septic system, the community well system and a slope analysis shall be provided by the developer with the preliminary plat application.
- D. Request by Dornoch Group for subdivision sketch design approval of "Lystra Road Subdivision", consisting of 69 lots on 144 acres, located off SR-1721, Lystra Road, Williams Township.

Ms. Richardson reviewed the agenda notes for this subdivision request that was deferred at last month's Planning Board meeting.

Karen Kemerait, attorney with Blanchard, Jenkins, Miller, Lewis & Styers, P.A., was present representing the applicant. Ms. Kemerait stated that this is a different application than initially submitted; that this is the third subdivision application for this property in a period of approximately one year; that the first application was a conditional use that was submitted by the previous owners for approximately 140 lots on 144 acres; that the applicant withdrew the application due to substantial opposition to the plan (that involved an on-site waste water treatment facility); that the current owners filed another subdivision application for 90 lots / 144 acres; that this request that was approved by the Planning Board (with a minority report submitted by Mr. Walker and Ms. Kost) but was denied by the Commissioners in January 2007; that the Commissioners' concerns were basically density and steep slopes; that the plan was then redesigned and the developer sent letters to neighbors informing them of the new plan and inviting them to attend a community meeting on February 27, 2007; and that none of the neighbors attended the community meeting. Ms. Kemerait cited that this particular application is for 69 lots on 144 acres which is approximately 2.08 acres per lot; that the applicant has tried to address concerns raised regarding:

- number of lots and density of the project (eliminated 21 lots)
- protect Herndon Creek and the natural area (all development is outside natural area)
- protect water quality of Herndon Creek (providing buffers well above Chatham County requirements, i.e. 218' buffer between Herndon Creek and the closest lot line and the nearest house would be 350' from the center of Herndon Creek)
- considering conservation easement along Herndon Creek
- development within the areas with the steep slopes (moved development around steep slope areas).

Ms. Kemerait cited that the applicant is willing to agree to an environmental impact assessment to be presented before preliminary plat submittal; that a traffic analysis report was not required but was done voluntarily by the owners; that the traffic analysis was done during the hours of 7:00 a.m. – 9:00 a.m. on a day when Chatham County schools were in session; that she would check on the time that the analysis was done in the evening hours; and that the applicant would comply with NCDOT requirements, i.e. traffic, speed limit, turning lanes (that happens after sketch design approval and before preliminary submittal).

Discussion followed regarding the initial traffic analysis, community septic fields, and cul-de-sac.

Kevin Hamak, Landscape Architect / Project Manager with The John R. McAdams Company, Inc., was present representing the applicant. Mr. Hamak addressed open space, subsurface systems and the reduction of lots. He stated that the community septic system would be maintained by a utility company (probably Heater Utilities); and that the length of the streets would be approximately 4200 ft. with a few private driveways and no stub-outs to adjacent lands.

Jonathon Townsley with S&EC, was present representing the applicant. He stated that with the preliminary plan it is intended that the community septic areas would be conventional type systems (no pre-treatment or filtration type systems); and that site specific work would determine if the systems fit.

Adjacent landowners spoke as follows:

- Marilyn Collins, 838 Lystra Road

Ms. Collins stated that she was also representing her in-laws, Bruce and Gail Collins, 876 Lystra Road. Some of her concerns were:

- community septic proposed next to her property (too close to her well)
- protection of adjacent landowners
- notice to adjacent landowners of community meeting was not sent in a timely manner
- traffic
- request that the application be sent to the Environmental Review Board
- 15-501 corridor
- buffers (existing landowners and Herndon Creek)

- Simon Smith, 598 Jones Branch Road

Mr. Smith stated that his land (and his wife, Gretchen) abuts the southeastern corner of the proposed property. He distributed a hand-out titled, "Public Hearing Testimony from Simon Smith on Sketch Design for Lystra Road Property, April 3, 2007". (A copy is filed in the Planning Department.) Some specifics noted were:

- waste water disposal – disastrous
- septic fields uphill from house site (i.e. lots 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, 34, 39, 46, and 47 =14 lots out of 69 lots)
- house sites and areas of property have 18% or greater slopes
- applicant's traffic impact analysis

- Gretchen Smith, 598 Jones Branch Road

Ms. Smith distributed a hand-out titled, "Planning Board Meeting, April 3, 2007, Lystra Road Presentation by Gretchen Smith, 598 Jones Branch Rd, Chapel Hill, NC 27517". (A copy is filed in the Planning Department.) A summary of her concerns are as follows:

- insufficient information provided by the developer for a "rigorous review" expected by the Commissioners
- questionable seriousness by the developer to solicit or use input from adjacent property owners and other interested parties
- need for an Environmental Impact Assessment and review by the new Environmental Review Board due to Herndon Creek Ravine SNHA, wetlands and streams within the Herndon Creek watershed
- need for an independent Traffic Impact Analysis as part of an Economic Impact Assessment
- need for permanent conservation protection of Herndon Creek Ravine SNHA and streams within the Herndon Creek watershed
- amount of area indicated as "unsuitable", bouldery and extremely bouldery on the detailed soil report, and potential for site disturbance
- no details regarding community septic systems or their maintenance
- insufficient undisturbed buffers for Herndon Creek Ravine SNHA, other streams and wetlands, as evidenced by the Commissioners' recognition that current minimum requirements need to be expanded by amending the Watershed Protection Ordinance
- insufficient undisturbed buffer around the perimeter to minimize visual impact to adjacent property owners
- unsuitability of the land for subdivision as proposed due to:
 - Herndon Creek Ravine Significant Natural heritage Area (SNHA)
 - number of wetlands, streams, and tributaries that drain into Jones Branch stream and Herndon Creek
 - steepness of terrain in many areas
 - bouldery and extremely bouldery surface on significant portion of property
 - narrow, winding Lystra Road not designed for traffic generated by large developments

Ms. Smith stated that additional time is needed for Board members to review the concerns of adjacent landowners. She asked that the Board deny the request.

- Jennie DeLoach, 484 Booth Hill Road

Ms. DeLoach distributed copies of her comments and soil site maps to the Board. (Note: Copies of these are filed in the Planning Department.) She stated that erosion is a specific concern especially along Jones Branch. She used the transparent overlay (provided in her hand-out) to show the various wetlands, bouldery surface areas, septic fields, and soils, i.e. unsuitable for septic fields or drip, on the proposed property.

- John Emerick, 424 Jones Branch Road

Mr. Emerick noted that he has the same issues that have been heard tonight; that some of those specifics are:

human waste, traffic, schools, railroads, roads, water quality, density, steepness of slopes, and etc.

Mr. Emerick stated that a main concern is regarding the community septic bordering the Herndon Creek Natural Area (that is a steep area); that waste water would drip into the Herndon Creek that flows into Jordan Lake; that he received his letter from the developer on Monday for the Tuesday community meeting; and that the 21 lots proposed for community septic equals 1/3 of the entire proposed lots.

- Allison Weakley, a biologist and Chatham County resident stated that she has reviewed this plan and that it does not meet the regulations as outlined in our Subdivision Ordinance for the reasons stated in her comments during January 16, 2007 Board of Commissioners' meeting; that some of her larger issues still remain as follows:

- seeps and wetlands not accurately portrayed,
- request stream classification data for this site,
- request soils data for this site,
- steep slopes,
- Herndon Creek Natural Heritage Area, i.e. protect natural area, and
- request an Environment Impact Assessment and Economic Impact Assessment.

Ms. Weakley referred the Board back to her comments of January 16, 2007. She stated that she is working on a conservation project on the Herndon Creek watershed that is extremely important to the health of Jordan Lake and to the State; that she hopes that there would be greater buffering along streams; that she would like to see conservation easements on all stream buffers; and that she would submit written comments (and visuals) if the Board does not vote tonight on this request.

- Peter Theye, 1065 Boothe Hill Road

Mr. Theye distributed a copy of his comments and concerns to Board members. (This hand-out is filed in the Planning Department.) Mr. Theye's main concern was regarding the impact this subdivision would have on schools. He stated that it is irresponsible for the Planning Board to approve any large-scale development such as Lystra Subdivision.

- Katherine Emerick, 424 Jones Branch Road

Ms. Emerick stated that she is opposed to this subdivision for all the reasons cited above; that she does not have faith in this subdivision; and that the land is unsuitable for the proposed project.

- Cosima Long, 50 West Newman Road

Ms. Long stated that she and her husband, Robin Dennis own sixteen acres adjacent to the Herndon Creek Natural Heritage Area; that she requests that the Board not approve the proposal at this point (which if approved, would give the developer the opportunity to begin the work); that there seems to be enough ambiguities with the traffic, schools, water, and etc.; and that she asks that the Board allow some environmental assessment to be done before approving the request.

No additional landowners requested to speak at this time.

Chairman Walker stated that much information had been received; and that this item could be deferred for one more meeting before sending a recommendation on to the Commissioners.

Discussion followed. Mr. Klarmann inquired about the soils discrepancy in this plan versus the earlier plan. Mr. Townsley (S&EC) stated that their clients have various needs at different levels in the development process; that the proposed map is a detailed soil site evaluation for subsurface septic systems; and that Thomas Boyce with the Chatham County Environmental Health Department has reviewed the proposed map and found it to be adequate for sketch design.

Motion to reject the recommendation of the Planning staff:

Mr. Hinkley made a motion to reject the recommendation of the Planning staff and that the subdivision request is turned down for a number of reasons that have been heard tonight. Ms. Sharman seconded the motion. Discussion followed.

Ms. Kost stated that the Board has been given a lot of information tonight and that, given the time frame, it would be more fair to everyone to take an extra month to study the material. Ms. Ford stated that she has walked the land; that even though the density has been decreased on the one side of the power line that the area is still very problematic; that lots on the other side of the power line with the community septic and slopes are unsuitable even for larger lots; that the stream data is a concern since several streams are not indicated on the survey map; that she requests that the buffers be increased on other streams indicated on the map; that the information to read supports denial; but that the Board might think additional time is needed to study the application. Mr. Hinkley stated that there would need to be drastic changes in this proposal to make it amiable to the lay of the land, to the streams, questions about traffic, and the school situations that do not support staff recommendations. Mr. Harris stated that he has not found anything positive about this proposal and that traffic remains a specific concern. Mr. Ernst stated that this Board is to serve the general needs of the public; and that concerns have been spoken; and that his question is what the developer would be allowed to do with the property. Ms. Ford referenced Section 6.1 of the Subdivision Regulations in determining that this land is not suitable for what is proposed; that the Planning Board has an obligation to

Chatham County and the citizens to vote against the plan if found not to be suitable; and that the developer could re-submit with a different, acceptable plan based on tonight's comments and concerns.

Aaron Garner, Dornoch Group, stated that steps were taken along the developmental process to execute diligence (before purchasing the property) to analyze the site; that everything has been done in accordance with the Subdivision Regulations and in many situations exceeding the requirements; that their team of experts are confident with the plan and that the land can be developed as proposed; and that the developer has pulled back from the slope areas and made it a better project.

Mr. Hinkley restated his motion to reject the recommendation of the Planning staff and that the Planning Board turn down this subdivision request for a number of reasons heard tonight. The motion was seconded by Ms. Ford. Board discussion followed. Mr. Megginson asked that Mr. Hinkley state some of the reasons for his motion so that the developer would know what changes are needed. Ms. Sharman stated that she walked the property and that the entire southern portion of the land around Herndon Creek is unsuitable for development, i.e. too hilly. She inquired if lots 27, 31 and 33 might be cluster of houses leaving a large natural area. Mr. Garner stated that a cluster development possibly could be done but that the ordinance allows RA-40 zoning.

Motion to table this issue until next month's Planning Board meeting:

Mr. Ernst stated that, based on concerns heard tonight and with a motion made and seconded and the question stated, that at this point he offers a motion to table this issue until next month's Planning Board meeting. Discussion followed. Three specifics noted for the developer to address next month were:

- ❖ stream data, i.e. some things not shown on map
- ❖ increase buffers to 100 feet on all other creeks
- ❖ identification of rock mounds

Ms. Cross seconded the motion. There was no further discussion and the motion passed unanimously.

At this time [10:00 p.m.], the Board discussed the review of items still remaining on tonight's agenda as follows:

Valley View – Ms. Kost asked that this item be tabled until next month

Burnette Mountain Estates, LLC – Chairman Walker asked that this item be tabled until next month

Apologies were extended to adjacent landowners (who had sit through tonight's meeting) but it was the consensus of the majority of the Board that these items warrant extensive review.

Planning Department Budget – Ms. Kost suggested that this item be discussed next month (first on the agenda). Commissioner Lucier stated that the County Commissioners would begin reviewing the Manager's proposed budget on May

1st or May 8th and that the Planning Board should submit items by May 8th. Mr. Hinkley distributed a hand-out titled, "Chatham County Planning Board, Planning Department Budget FY 2007-2008, Suggestions of Member Jim Hinkley, Tuesday, April 3, 2007". (Note: A copy of Mr. Hinkley's hand-out is filed in the Planning Department.) He asked that Board members consider his suggestions listed in said hand-out.

VII. PRELIMINARY DESIGN APPROVAL:

- A. Request by Ticon Properties, LLC for subdivision preliminary plat approval of Valley View, consisting of 22 lots on 47 acres, located off SR-1526, Andrews Store Road, and Baldwin Township.

It was the consensus of the majority of the Board that this issue be tabled until next month's Planning Board meeting (May 1, 2007.)

VIII. MISCELLANEOUS REQUEST or REQUIRED ACTION:

- A. Request by Phreddie D. Popp for a subdivision appeal of decision on Burnette Mountain Estates, LLC, located off SR-1700, Mt. Gilead Church Road, Baldwin Township.

It was the consensus of the majority of the Board that this issue be tabled until next month's Planning Board meeting (May 1, 2007.)

IX. ZONING AND ORDINANCE AMENDMENTS – *Items from March 19, 2007 Public Hearing:*

Chairman Walker stated that Dave LeGrys was present tonight on behalf of the proposed amendments to the Communications Tower Ordinance (Item A.) and Zoning Ordinance regarding lighting (Item C.).

Mr. LeGrys (former Planning Board member and author of the Chatham County Communications Tower Ordinance) stated that he would return next month to discuss these items if the Board desires; but that typically cell tower providers have already begun their application process.

- A. Request by the Chatham County Board of Commissioners on proposed text amendments to the Chatham County Communications Tower Ordinance to Article II, Permits and Article III, Application Submission and Review Process. The purpose of the amendments is to change the time allowed for construction of a communications tower after the approval of the tower location plan.

Chairman Walker stated that there were no concerns expressed during the public hearing nor were there specific concerns voiced by Planning Board members regarding this issue.

Motion to approve:

Mr. Ernst made a motion; seconded by Ms. Cross to grant approval of the proposed text amendments to the Chatham County Communications Tower

Ordinance, Article II and III, as submitted and as recommended by staff. There was no discussion on the motion and the motion passed unanimously.

- B. Request by Chatham County to rezone approximately 533 acres on SR 1972 (Pea Ridge Rd.) from Heavy Industrial (H-Ind) to Residential Agricultural (RA-40).

It was the consensus of the majority of the Board that this issue be tabled until next month's Planning Board meeting.

- C. Request by the Chatham County Board of Commissioners on proposed text amendments to the Chatham County Zoning Ordinance to include a section to regulate outdoor lighting. The amendments include standards for outdoor lighting, establish lighting design review and enforcement procedures, and establish an amortization schedule for vehicular canopies.

John Henville-Shannon, 39521 Glenn Glade, Governors Club, stated that he submitted his comments and concerns to the Planning staff (See material titled, "Response to Public Hearing on Chatham County Lighting Ordinance, Rev. 4 Draft" included in tonight's agenda notes, attachment #9 and also filed in the Planning Department); that lighting in subdivisions is a main concern; that wherever there is decorative lighting there is an issue with homeowners attempting to change the parts (i.e. design of the community); that sometimes replacements are necessary and power companies do not cooperate with upgrades; that appliances needed are not available to comply; and that the Board needs to encourage the power companies to provide the fixtures that are needed and to work together with other power companies so that there can be consistency throughout the community. Mr. Shannon asked that the Board consider his proposed adjustments to the ordinance as submitted in his material referenced above.

Mr. LeGrys stated that during the public hearing he outlined several key aspects of the ordinance beginning with the canopy lighting; that why the shielding did not damage the protection provided by the lighting was addressed; that he would be interested in reading Mr. Henville-Shannon's report and to look at how those implementation details might be purposed and maybe refined. Two specifics that Mr. LeGrys asked the Board to consider were, 1.) review of the implementation of canopy lighting (5 yr. conversion), and 2.) as we go forward with the implementation materials remember that this ordinance has been tried and proven in many other places and it works; and that we are simply adopting standards already in place throughout the region.

Mr. Ernst was concerned that property owners with existing homes would have to change lighting. Mr. LeGrys stated that this only pertains to canopy lighting.

Defer discussion until next month

It was the consensus of the majority of the Board that discussion of this issue be continued during next month's Planning Board meeting.

X. NEW BUSINESS:

A. Planning Board Member Items

1. *Zoning along Old Graham Road*

Ms. Kost stated that it is important that the issue of potentially zoning the land along NC Old 87 (Old Graham Rd.) is discussed next month; and that over 2000 homes (including the Bobcat Point subdivision) are represented in this area. Mr. Ernst inquired if a special meeting might need to be held for discussion of Planning Department issues. Board discussion followed regarding the enormous amount of items on the agendas and possible ways to complete Board review, i.e. set work session.

2. *Discussion of Planning Department Budget if time permits*

It was the consensus of the majority of the Board to table this issue for discussion during next month's Planning Board meeting. Please refer to Mr. Hinkley's hand-out referenced earlier tonight regarding his suggestions to the FY 2007-08 Planning Department Budget. Note: A copy is filed in the Planning Department.

Special Planning Board meeting scheduled: - see additional discussion below.

Following discussion, Mr. Ernst made a motion; seconded by Ms. Turner to schedule a special Planning Board meeting for Thursday, April 26th from 6:00 p.m. to 8:00 p.m. to address the budget and other items (if time permits). There was no discussion on the motion and the motion passed unanimously. Chairman Walker stated that this would be contingent with staff locating a room for the meeting.

3. *Committees*

Chairman Walker stated that the Commissioners have requested that the Planning Board review current ordinances (subdivision and zoning) specifically to address issues of Board members as well as the public; that the Planning Board needs to establish subcommittees to look at this with the idea of the Board not re-writing the ordinances specifically but rather to get an idea of what Board members want to see revised or improved; that to identify this is the first task; that the committees need to be Planning Board committees but can include outside people if Board members want outside advisors; that the committee meetings are subject to open meeting laws (i.e. advertise and public can attend if they so desire); that committees may want some consulting assistance; and that there needs to be two committees that would report back to the Planning Board for recommendations and/or decisions.

The following Board members volunteered to serve as follows:

Zoning Ordinance Sub-Committee

Karl Ernst
Jim Hinkley
Delcenia Turner

Subdivision Regulations Sub-Committee

Barbara Ford
Jim Hinkley
Sally Kost
Judy Sharman
Delcenia Turner

Special Planning Board meeting – additional discussion.

Discussion followed regarding the format for the special Planning Board meeting scheduled for April 26th. It was noted that appropriate notifications

need to be sent adjacent landowners if subdivision issues deferred tonight are scheduled for review; and that the Board could take action if it is a publicized meeting. Ms. Cross was concerned with the consistent comments, concerns, and hand-outs of landowners during Planning Board meetings relative to various issues, i.e. Lystra Road Subdivision; and that the Planning Board does not have the time to listen to these repetitive comments. Ms. Kost stated that the new Planning Board members were not on the Board when the initial Lystra Road Subdivision request was submitted and that they have not heard or received original comments / materials. Chairman Walker stated that he and Mr. Megginson would finalize the agenda for the special April 26th meeting and forward to Board members as soon as possible.

B. Planning Director's Report

1. *Chatham / Cary Joint Land Use Plan Meeting*

Mr. Megginson stated that the Board of Commissioners will hold a public hearing on the joint Land Use Plan maps on April 17, 2007 at 7:00 p.m. in the Chatham County Superior Courthouse in Pittsboro, NC. He noted that the maps are on the website.

2. *The Glens Subdivision, Old Graham Road*

Mr. Megginson stated that the Commissioners tabled this subdivision request during their last meeting; that the State revisited the stream classifications and found them to be as S&EC had said; that the streams were as delineated; that there was one stream not shown on the USGS quad sheet (that crossed a corner) that was thought (and confirmed by the State) to be an intermittent stream; that the drainage area that had the 20 foot drainage easement was not found to be an intermittent or perennial stream; that the other one that was decided to be buffered (except where there is a road crossing) also did not qualify as perennial or intermittent.

3. *Moratorium*

Mr. Megginson stated that yesterday the Board of County Commissioners discussed having a moratorium; that the Commissioners are working with the interim county attorney on the details, i.e. what is involved, how long would it last, what it applies to, and reasons for it; and that this would be discussed during the April 16th, 2007 Commissioners Meeting.

Commissioner Lucier stated that the County Commissioners would likely exempt commercial development from the moratorium; and that some of the specifics to be determined are, 1.) what size subdivision would be exempt, and 2.) what needs to be accomplished during the moratorium period.

4. *Issues (liability and others) regarding trespassing onto properties*

Due to the time frame, this issue was not discussed.

- XI. ADJOURNMENT: Mr. Ernst made a motion; seconded by Ms. Cross to adjourn tonight's meeting. There was no discussion on the motion and the motion passed unanimously. The meeting adjourned at 10:55 p.m.

Chris Walker, Interim Chair

Date

Attest: _____
Kay Everage, Secretary to the Board

Date