

..TITLE

Vote to approve a request by Jeff Foster, P.E. on behalf of Zadell Development, LLC for subdivision **First Plat** review and approval of **Anfield Estates**, consisting of 11 lots on 24.7 acres, located off Beaver Creek Road (SR-1008), parcel 5491 in Cape Fear Township.

..ABSTRACT

Action Requested:

Vote to approve a request by Jeff Foster, P.E. on behalf of Zadell Development, LLC for subdivision First Plat review and approval of Anfield Estates, consisting of 11 lots on 24.7 acres, located off Beaver Creek Road (SR-1008), parcel 5491 in Cape Fear Township.

Introduction & Background:

Zoning: R-1
Water System: Private on-site
Sewer System: Private on-site

Subject to 100-year flood: No special flood hazard area within the development.

General Information: The subdivision process is a four (4) step process: Concept Plan, First Plat, Construction Plan, and Final Plat. The applicant has completed the community meeting and the Concept Plan review. The minimum lot size requirement for the project is 40,000 square feet of useable area. The Planning Board has two (2) meetings in which to act on the proposal.

Discussion & Analysis:

The request is for First Plat review and recommendation of Anfield Estates, consisting of 11 lots on 24.7 acres, located off Beaver Creek, S.R. 1008. 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.

Roadways: The road is to be built as a 20-foot-wide travel way with a 60-foot-wide public right-of-way and is to be state maintained.

Historical: The applicant contacted Sy Robbins, Chatham County Historical Association (CCHA). Mr. Robbins provided an email dated July 14, 2023, stating there are a number of houses along Beaver Creek Road that are of significant historical/architecture interest; don't believe this project will negatively affect these.

Keep an eye out for unmarked gravesites, old foundations, etc. and contact CCHA. The applicant is encouraged to follow the CCHA's guidance document checklist.

Schools: Notification of the proposed development was provided to the Chatham County School System. Randy Drumheller, Chatham County Schools Director of Maintenance was contacted by email dated July 11, 2023.

General Environmental Documentation: The developer submitted the General Environmental Documentation and a letter dated July 11, 2023, from North Carolina Department of Natural and Cultural Resources Natural Heritage Program (NCNHP) to Chatham County Land & Water Resources Division for review. The letter states "A query of the NCNHP database, indicates that there are records for rare species, important natural communities, natural areas, and/or conservation/managed areas within the proposed project boundary. The proximity of these records suggest that these natural heritage elements may potentially be present in the project area if suitable habitat exists." NCNHP recommends contacting the US Fish and Wildlife Services (USFWS) for guidance.

Taylor Burton, Watershed Specialist, reviewed and approved the information submitted.

Community Meeting: A community meeting was held on July 26, 2023, at Chatham County Library, Pittsboro, NC. Approximately six people attended the meeting. Items/issues discussed included will fiber be brought to the area, effect on the water table, will the power be underground, who will build the shared driveway, any street lighting, can lots be recombined, and will there be a feature at the entrance.

Technical Review Committee: The TRC met September 13, 2023, to review the First Plat submittal. The representatives Mr. Jeff Foster P.E., Clay Matthews, P.E., and Kyler Zadell were present. Discussion included if the applicant has received anything from US Army Corps of Engineers about the wetlands, location of the mail kiosk, and Environmental Health stated most of the septic systems will require NCDEQ approval.

Septic: A soils report and map prepared by Piedmont Environmental Associates, P.A. was submitted to James Tiger, Chatham County Environmental Health Supervisor II, for review. Mr. Tiger stated, "We cannot comment on the available space for configuration for state permitted systems. Planning will have to rely on your experience and expertise for the proposed subdivision."

Water: Individual wells

Road Name: The road names Anfield Road has been approved by Chatham County Emergency Operations Office as acceptable for submittal to the Board of Commissioners for approval.

Water Features: Rhiannon Graham with Terracon Consultants, Inc submitted the Riparian Buffer review application along with a riparian buffer map to Drew Blake, Asst. Director Watershed Protection Dept. Drew Blake and Rhiannon Graham completed an on-site riparian buffer review on July 17, 2023, to verify the consultant's findings. The consultant previously visited the site October 31, 2022, and identified one (1) ephemeral stream. On February 10, 2023, Drew Blake Asst. Director Watershed Protection Dept. and Taylor Burton, Senior Watershed Specialist issued a confirmation letter of the findings. The July 24, 2023, confirmation letter stated two (2) intermittent streams, three (3) potential wetlands, and one (1) ephemeral stream. A 30-ft buffer from top of bank landward on both sides of the feature for all ephemeral streams, a 50-ft buffer will be required beginning at the flagged boundary and proceeding landward on all wetlands, and a 50-ft buffer from top of bank landward on both sides of the feature for all intermittent streams. The Jurisdictional Determination (JD) request has been submitted to the Army Corp of Engineers and is currently being processed. The JD will be required at construction plan submittal.

Stormwater and Erosion Control: There is one proposed stormwater device. As part of the stormwater permitting process additional information will be provided to the Watershed Protection Department during the permitting process. A Stormwater Permit and Sedimentation & Erosion Control Permit will be obtained from the Chatham County Watershed Protection Department prior to Construction Plan submittal. No land disturbing activity can commence on the property prior to obtaining Construction Plan approval.

Site Visit: Site visits were scheduled for September 19, 2023, and September 20, 2023, for Planning Department staff and various board members to attend. Clay Matthews and Kyler Zadell were present to walk the property with staff and Board members and discuss the project. Pictures of the site visit can be viewed on the Planning Department webpage at www.chathamnc.org/planning, Rezoning and Subdivision Cases, 2023.

Planning Board:

The Planning Board met Oct. 3, 2023, Clay Matthews and Kyler Zadell were present. During public input Mr. Rick Burch, who resides adjacent to the proposed subdivision spoke. Mr. Burch had concerns with water features that are not shown on the proposed plat, the abandoned railroad bed, Bald Eagles and Redheaded Woodpeckers in the area, and a NCDOT pipe that crosses under Beaver Creek Road allowing water from the north side of Beaver Creek Road to discharge in an area near the railroad track that flows to a wetland. He lives in Jordan Lake Farms Subdivision which requires a 50-foot perimeter buffer, the proposed driveway in Anfield Estates is proposed directly adjacent to Mr. Burch's property line and he is concerned the clearing for the driveway will damage the tree roots and possibly kill the trees on his property. He stated he asked

Mr. Zadell if they plan to require a buffer and was told it was in discussion, but not promised. He doesn't like the location of the driveway because it stretches for most of his property line.

Planning Board discussion included the following:

- Shared driveways for Lots 4, 5, 7, 8, & 9
- What species are endangered that may be in this area?
- Has the developer reached out to the US Army Corp or the US Fish and Wildlife Service?
- Who is responsible for the shared driveway? Mr. Matthews stated the HOA will be responsible.
- Concerns with tree clearing in the easement for Lots 7-9.
- Why are there so many state approved septic systems?
- The layout of the project appears to be loaded with as many lots as possible and not well organized.
- Would like to see the shared driveway for Lots 7-9 moved far away from the adjacent property.
- The Board voted to postpone making a recommendation on the item and asked the developer to look into a shared driveway for Lots 4 & 5, move the shared driveway for Lots 7-9 away from Mr. Burch's property, a notation for the pipe that will run under the easement near the "T" turnaround, provide a location for the mail kiosk, address the drainage pipe under Beaver Creek Road, and contacting the US Fish and Wildlife Service to ask if they will conduct a survey of the project.

To address the concerns expressed by the Board during the October 3, 2023 meeting the following information was received from the developer's representative:

- Shared driveway potential for lots 4 & 5. – The developer's preference is for individual driveways. Lots conform to Chatham County Subdivision requirements for lot width and access.
- Move shared driveway for lots 7, 8, and 9 as far over as possible. – At this time the driveway location is optimal to provide access to lots 7, 8, and 9. Should site conditions allow the relocation of the driveway during construction plan review, it may be relocated.
- Add notation for pipe under shared driveway. – Crossing pipe added.
- Show location of mail kiosk. – Mail kiosk added to cul-de-sac bulb.
- Address drainage pipe running under Beaver Creek Rd. – Pipe running under Beaver Creek Rd. is an NCDOT maintained pipe. Pipe appears to be silted in at this time. Current drainage patterns flow water away from Beaver Creek Rd on

both sides with little to no drainage flowing onto parcel 65045. See image clip from Chatham GIS in email correspondence. We will make NCDOT aware of the silted pipe during construction process. Should NCDOT decide to clean this pipe, the developer will ensure that any resulting discharge will not flow onto parcel 65045.

- Contact US Fish and Wildlife Service to request a survey. – Email from Rachel Capito with USACE dated 10/20/23 states, “if there is no trigger (no permits, funding, or other federal involvement) then there is no federal hook for the Endangered Species Act review under Section 7. Unless there is a listed species or habitat within the project area, and you need an Incidental Take Permit which you would do directly with FWS through Section 10 consultation. There may be additional local or state requirements that I may be unaware of, but USACE would not be involved if there is no trigger for a permit. Let me know if you have any additional questions.”

Planning Board Discussion:

Planning Board met November 7, 2023. Mr. Clay Matthews, P.E., Mark Ashness, P.E., Kyler Zadell, Project Manager and Brad Zadell were present. Mr. Rick Burch, adjacent property owner, stated that the six items that the Board asked for the applicant to look into, it seems like they only addressed three. Wanted to bring to the Boards attention that this property is located on a peninsula of Jordan Lake. Mr. Burch stated he found a discrepancy in the letter provided by Piedmont Environmental, which stated that this project would require a state system called a surface drip type system that requires a minimum of 20,000 sq. ft. to 30,000 sq. ft. per lot for a septic field. When you review the plat, four of the lots are under the 20,000 sq. ft. minimum, with the lowest being 19,358 sq. ft. and the other seven lots are just barely at the minimum, averaging 20,500 sq. ft.

There was a brief presentation by Mr. Clay Matthews.

Board members discussion included:

- Lot size requirement for septic drip-system.
- Why the shared driveway for Lots 7-9 couldn't be moved. Mr. Matthews said it is an optimal location because it is midway between where the stormwater quality pond and where the property line is located.
- The proposed subdivision was designed to create as many lots as possible.
- The endangered red-cockaded woodpecker and the bald eagle
- The project is not inconsistent with Plan Chatham
- It does not appear that any efforts have been made to change the plans for the concerns addressed at the previous meeting.
- The Board needs to evaluate to see if the project has checked all the boxes.

- Board members had concerns about the developer not working with Mr. Burch.

A motion to approve the project by vote of 3-6 motion failed and motion to deny the project by vote of 6-3 passed. Staff requested reasons for denial based on the deficiency of the application in accordance with the subdivision regulations. The reasons for the recommendation to deny the request were that it was bad plan and layout, a lack of information in order to make a sound recommendation for approval, and additional information was provided by a local resident during the meeting and they needed more time for review. Vice-Chair Spoon commented there a legal timelines they are bound to follow and this is the last meeting for the board to consider this item.

Following the Planning Board meeting a memo dated November 20, 2023 providing additional information in support of the recommendation for denial was provided to staff by Planning Board members Elizabeth Haddix and Tony Mayer. The memo is available on the county website and includes that the application fails to meet Section 7.1A, D, and E of the Subdivision Regulations because the subdivision layout does not show that the septic system setbacks comply with 15 NC Administrative Code 2T.0606, Section 6.2F pertaining to disclosure of required permits and/or certifications for grading and filling of stormwater ditches and wetland areas, and 7.4C for refusing to relocate a shared driveway easement shown on the plat and to combine the driveways to lots 4 and 5.

Staff also received additional information from the developer following the Planning Board meeting in a memorandum dated 11/27/2023. The memo stated the following:

Anfield Estates is an 11 lot, by-right subdivision that complies with the Chatham County Subdivision Ordinance as referenced in the County Planning Staff report.

- During the subdivision process, the Concept Plan was submitted showing two ephemeral streams that were later upgraded by Chatham County Watershed Department and added wetlands. Those changes were reflected during the First Plat submittal. With that change, the septic setbacks were not accounted for and have been revised in this package to the proper NCDEQ septic setbacks. The subdivision lot lines have not changed and are identical to the plan seen by Planning Board on November 7th . Septic soils shown are suitable for NCDEQ permitting as referenced by the attached letter from the Piedmont Environmental.

- Stormwater will be handled on site as per Chatham County and NCDEQ standards. Any off-site drainage that flows through this site will be routed

to its original destination. There were concerns about the existing NCDOT crossing pipe within Beaver Creek Rd ROW located at the northeastern corner of the property that do have merit. As stated in both planning board hearings, if during development of Lot 11 it is found that there is flow coming from off-site, we will divert that water with a drainage swale and/or drainage pipes back to its original destination without encroaching onto Mr. Burch's property. It should be noted that there has not been any activity by the developer or others to alter drainage of the site since purchase of the property in November of 2022.

- Septic issues have been addressed above. Please see attached letter from Piedmont Environmental and accompanying email correspondence from Chatham County Health Department.

- A letter from Terracon has also been provided to clarify any questions regarding the NCNHP report and its findings.

In summary, the project is fully compliant with the County Subdivision Regulations and will provide 11 lots ranging from 1.5 – 3.0 acres with an effective density of 2.2 acres per lot.

A revised plat was submitted, additional letter from Piedmont Environmental Associates, P.A. dated 11/27/2023 and 11/2/2023, email correspondence dated 11/27/2023 between Chris Murray with Piedmont Environmental Associates, James Tiger with Chatham County Environmental Health, and a letter dated 11/27/2023 from Jeff Harbour with Terracon.

How does this relate to the Comprehensive Plan:

Plan Chatham was adopted by the Board of Commissioners in November 2017 and is a comprehensive plan that provides strategic direction to address the most pressing needs in the county. These properties are located in an area of the county identified as Rural on the Future Land Use and Conservation Plan Map (Strategy 5.2). The description for rural includes low-density, single-family homes on large lots, agriculture, home-based & small-scale businesses, regional greenway trails, and conservation easements.

The proposed conventional 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 none were identified in their records. It should be noted that Plan

Chatham is not intended to be used as a regulatory tool but is a policy document. When reviewing subdivision applications, the boards can use the plan as a tool to identify future regulatory changes.

Recommendation:

The Planning Board by 6-3, voted to recommend denial of the First Plat.

The Planning Department recommends granting approval of the road names Anfield Road and granting approval of the First Plat for **Anfield Estates** with the following conditions:

1. Approval of the First Plat shall be valid for a period of two (2) years 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.