



Chatham County Planning Board Minutes November 7, 2023

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

Present

Tony Mayer
Mary Roodkowsky
Clyde Frazier
Elizabeth Haddix
Norma Hernandez

Jon Spoon, Vice Chair
Shelley Colbert
Amanda Roberson
Eric Andrews

Absent

George Lucier, Chair
Kent Jones

Planning Department

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

- I. CALL TO ORDER:
Vice-Chair Spoon called the meeting to order at 6:30 p.m.
- II. DETERMINATION OF QUORUM:
Vice-Chair Spoon stated there was a quorum, 9 members were present, Chair Lucier and Mr. Jones were absent.
- III. APPROVAL OF AGENDA:
Approval of the Agenda – Motion made by Ms. Haddix, seconded by Mr. Frazier. The agenda was approved, 9-0, unanimously.
- IV. APPROVAL OF THE MINUTES:
Consideration of the October 3, 2023 meeting minutes. Minor edits were noted. Motion by Ms. Roodkowsky to approve the October 3, 2023 minutes and seconded by Ms. Colbert, the minutes were approved 9-0.
- V. PUBLIC INPUT SESSION:
There were no public speakers signed up to speak at this time.

VI. SUBDIVISION ITEMS:

1. 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.

Ms. Tyson stated to address the concerns expressed by the Board had during their 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 below. 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."

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 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.

Public Input:

- Mr. Rick Burch of 5116 Beaver Creek Road stated he is the adjacent property owner to the east of the proposed project. I spoke at the Planning Board meeting last month and raised my concerns then. The six items that the Board asked for the applicant to look into, it seems like they only addressed three of them. The NCDOT has a culvert running under Beaver Creek Road which is to carry stormwater from both the north and the south side of the road onto the first driveway of the plan in the upper right corner. There is an abandoned railroad track and a few years ago there used to be a ditch through that railroad track on their property. That ditch has been filled in, I do not know who or when it was filled in, but water is now being forced back over onto my property, so the statement they have made about water not being pushed back over onto my property is a false statement. They also said they will contact NCDOT

after they start construction, I looked at the North Carolina subdivision regulations in Chapter 160D, it states the road engineers are to be contacted before construction. I also want to bring to the Boards attention that this property is located on a peninsula and is almost surrounded by water to the north, east, and part of the south. I have a map I can provide you from the NCDEQ that actually shows our peninsula. It is important to understand that this is a very important parcel of land to the county because all of the runoff goes into the drinking water supply of millions of people. This property is also under a partial prohibited management system, and I found a discrepancy in the letter proved by Piedmont Environmental on page two which said that this project would require a state system called a surface drip type system that requires a minimum of 20,000 sqft to 30,000 sqft lot for a septic field. If you look at the plat, four of the lots are under the 20,000 sqft minimum, with the lowest being 19,358 sqft and the other seven lots are just barely at the minimum averaging 20,500 sqft. I have items I would like to share with the Planning Board and request the Board to please not vote on this item tonight, postpone it to let me send you digital copies of the statutes and maps because this is very important to our environment and the water quality to Chatham County.

Applicant Presentation:

- Mr. Clay Matthews with the CE Group stated the pipe that is located under the access easement to the east, we addressed the drainage draw by adding a pipe in that location to alleviate the neighbors' concerns from the previous Planning Board meeting. There is a pipe in the corner, the same pipe Mr. Burch was referring to, I have gone out and looked at that pipe and it is almost entirely silted in which could have happened over time and because it is silted in the water comes down and fills the pipe and it may create a condition where a heavy rain event could cause the water to flow where it needs to go, it is acting like a dam. This situation would be addressed with the construction documents that will be submitted to NCDOT, and NCDOT will be able to provide a driveway permit and at that time we will mention the pipe and whether or not they plan to do anything for maintenance. The CE Group response, during that same process, if NCDOT does clean out the pipe and with rain events the water is still flowing onto Mr. Burch's property, we will in fact address that and make sure the water stays on our property. We also have had correspondence with our environmental consultant that has been on the site to address the concerns about US Fish and Wildlife requirements and the Natural Heritage Program report, I would like to read his comments verbatim. "The RCW occurrence is considered by NHP to be Historic and was last observed in 1984 when there were some remaining RCW colonies on the Game Land property. Extensive surveys for RCW have been conducted on the Game Lands and RCWs are no longer believed to be prevalent in the area. The project site does not contain suitable nesting habitat for RCWs, which consist of mature and often dead or dying pines (so that the nest cavities can be created) that are approximately 60 years in age. The last occurrence of bald eagles per NCNHP within one mile of the site is noted from 1997. Bald eagles do occur near Jordan Lake; however, the project site does not provide suitable nesting or foraging habitat for this species."
- Ms. Robertson asked what Mr. Matthews thoughts were about the comments made by Mr. Burch about the drip system lot size requirements and how some of these lots are less than those requirements. Mr. Matthews stated we have had a soils scientist do some testing on the site and ultimately go through the permitting process as the lots are created during construction. Those systems are analyzed as an as need basis as each septic needs to go in, and it is his experience as a soils scientist that the soils we have provided were adequate for these types of septic systems and for the size of homes that will be on each lot. Ms. Robertson stated from her understanding the lot size needed to be at least 20,000 sqft and we have about three lots under that size, will you address the size of those lots? Mr. Matthews said those figures came from the soils report and are an as needed basis, this is not a major concern, it is not an uncommon situation.

- Ms. Roodkowsky stated the shared driveways for lots 7,8, & 9, had some comments by the neighbor asking if it could be shifted over. In the comments it says, “the driveway location is optimal to provide access.” Could you elaborate on that as to why it is optimal and if site conditions could allow for relocation during construction plans, could some of that analyses be done before that phase of the project or this First Plat approval? Mr. Matthews said it is an optimal location because it is midway between where our stormwater quality and where the property line is located. That gives us the latitude to create the best slope and fill to provide the best driveway possible for those three lots and not impede our efforts to collect stormwater off of that road. If the driveway was located further down the slope, then we start to create stormwater control problems. The reason why we are not moving it any further at this stage is because the subdivision review process is to give us our lot lines and easements, once we get into the hard design of this project and what the stormwater pond is going to look like, then we might have a little more latitude to shift it. Right now, we are saying the driveway is in a really good position and based on our experience this is where it needs to be. As we move forward, we might be able to move it down the slope slightly, but we do not want to impede our ability to protect the members of this community and control the stormwater requirements from Watershed Protection.
- Ms. Colbert stated there was potential of a shared driveway for lots 4 and 5 and the response to that was, “the developer’s preference is for individual driveways”, but elsewhere within the same plan there is a preference to have a shared driveway. Why is the individual driveway for lots 4 and 5 the preferred preference? Mr. Matthews stated for lots 4 and 5, they do not have to compete for the same land as lots 7-9 have with the stormwater feature. If we were to put three separate driveways in that area it would look very unattractive. In the case for lots 4 and 5, we do have enough latitude to have two separate driveways. Ms. Colbert asked why is two separate driveways the preference of the developers? Mr. Matthews stated it is more attractive to potential owners to have their own driveway to their home and not have to worry about shared maintenance. Ms. Colbert stated we have an adjacent neighbor also has a preference and he is actually living there and what you are saying is a hypothetical preference.

Board Discussion:

- Vice-Chair Spoon stated we are going to make a motion for this item and then follow with discussion for the Board members.
- Mr. Frazier made a motion to approve this subdivision item, seconded by Ms. Colbert.
- Mr. Robertson stated at the previous meeting it was said that this subdivision meets the subdivision requirements and therefore we are required to approve it. They may be true, but I do take issue with that, and this project is not the approach we should take in Chatham County. Development has the responsibility that should respect adjacent properties and the time that we gave the applicant to adjust the driveway and the lack of doing that shows they are not owning that responsibility. This is an area of the county that is at real risk, and this is a sloppy plan that has been designed to get as many lots as possible and it is poorly done. The shared driveway right next to the adjoining property will impact the trees and those trees will fall. This is a bad design and will not be supporting the vote recommending approving it.
- Ms. Haddix said she agrees with Ms. Robertson and thanked Mr. Burch for taking the time to come back and address the Planning Board with his concerns and collected all the information which he gathered. I spent some time reviewing the last meeting minutes and the responses by Mr. Matthews. It might be a minor point, but the idea that there is not federal trigger for the endangered species is a little dubious when we do have sightings of the red-cockaded woodpecker and the bald eagle in the area, we have a resident that has lived there for some time and has photos of endangered species. It is not

surprising that the US Army Corps has not noted their appearance since 1984 and 1997, because it is an endangered species, and we need a better explanation as to why they say this property is not suitable for them. It will not be suitable once you cut the trees down because they will not have anywhere to live. Ms. Haddix stated she will also vote against this project.

- Ms. Colbert stated this project is inconsistent to Plan Chatham and we also have residents that are living here, if we look at the big picture of developments it is not just about future residents of the community, but it is also about the people who are currently living in the community and what their preferences are. It is not always possible to please everybody, but this adjoining property owner does have a valid concern and it should be considered. I am looking at the hydrology and see what the neighbor is saying and some of the issues in which they could be impacted. I also feel that not all of the information was presented well. Ms. Colbert asked staff if this was the last meeting to discuss this item. Staff said this is the last meeting and action must be taken on this item this evening. Ms. Colbert said because this will require an action tonight, she will be following her colleagues to recommend denial of this subdivision application.
- Ms. Roodkowsky stated she will also be joining her colleagues with their reservations on this item. There is a big difference between the letter of the law and observing the spirit of the law and what we are trying to do in Chatham County. There does not seem to be any efforts made to make changes to this plan for the concerns addressed from the previous meeting. The information that Mr. Burch researched is important and we need to look at that in much more depth.
- Mr. Frazier said his understanding of the law is that individuals have the right to develop and subdivide their property if they meet the requirements of the subdivision ordinance. I have not heard clearly where this project falls short meeting those requirements. Would someone explain to me what requirement of the subdivision ordinance is not met by this plan.
- Vice-Chair Spoon stated we have had this issue in years past. This is not a perfect plan, and I wish they would have put forth more efforts into a better design and place any fears the adjoining neighbors have to rest. We as a board do need to evaluate if this project has checked all the boxes and it does meet the criteria for that and we should try to avoid situations if we can, that places our county commissioners in a difficult state when we recommend something where they are not legally allowed to say no to. We as the Planning Board are supposed to be advising them. Also, when there are close situations when a vote could go either way, I try to trust our staff and their recommendations, because they work very hard on these proposals, you could see all the documents that are associated with just this application alone. Personally, I trust the staff and do not want to put our commissioners in a difficult position and that is why I will support the motion to approve this item.
- Mr. Mayer stated he understands as a board we are supposed to approve things that are legal, and we cannot deny something because we do not like the plan. Personally, I do not like this plan, it looks like it was designed to put as many lots as possible on this parcel and because of that we are ending up with shared driveways. I am a landscape designer and I know what good plans look like; this plan has problems. I ensure everything in here is legal and I also trust the staff. I did some research on the endangered species issue and both species have been reclassified to threatened so they are doing well. I believe we should live in a county where people care about species and go out of their way to encourage and preserve our threatened species. I would like to work with developers that are concerned with other aspects other than how much money they can make off of a property, but actually put in the time and effort for a well laid out plan for everyone and reflects the values of our community. Mr. Mayer said his main concern from last meeting was working with the neighbor keeping the driveway away from the trees and providing a buffer. It seemed reasonable we could all work together to try and find a solution, but apparently that is not part of their plan and that is frustrating.

- Ms. Hernandez asked in the design do the developers have to identify where there will be green areas or where they will not be cutting down trees? Vice-Chair Spoon stated they will not be allowed to cut any trees in the stream or wetland buffers.
- Ms. Colbert stated we are an advisory committee, and it is the job of the commissioners to make the final approval or denial of an application, not mine. What we heard today with the concerns of the neighbor certainly places some doubts if all of the aspects of this application have been met. Unfortunately, when we receive information at the last minute it makes it difficult to make sound recommendations and that is why I asked if we had more time to review this. Those of us that feel that there is sufficient doubt we have no problem voting against this item with the idea that it is a recommendation. The doubts I have because of certain aspects of this plan may be addressed between now and when it goes before the Board of Commissioners, but ultimately our elected officials have the burden to make this decision. I have heard all I need to hear, and I appreciate everybody's input regarding this application.
- Ms. Haddix stated she has great respect for our staff and there is no doubt that they have done their due diligence towards this project. I do not understand my job as a Planning Board member to approve a project if it complies with the law and staff recommends approval for it. The understanding of my job is to receive civic engagement and to learn from each other what we want the law to be so we can engage with our elected officials and change laws that are not working to preserve what we want to preserve in our communities. There is great value in these discussions and in having people listening to them, and my vote against this application is not about any doubt I have in our staff, it is about how I have spent a lot of time reviewing this application and I do not feel good about it, and I will not vote to approve something I do not feel good about. This project is not the best it can be under the law.
- Vice-Chair Spoon stated a few years ago we had a few of these types of applications in a row before the board and we ended up having an executive session with the County Attorney where we were allowed to have a closed meeting to receive advice on the different subdivision and zoning items and our roles and responsibilities as an advisory board. We are planning on doing something like that again on a less full agenda since we have a majority of new members.

There was a vote on the motion to approve Anfield Estates application, the vote was 3-6, opposed by Ms. Colbert, Mr. Mayer, Ms. Robertson, Ms. Hernandez, Ms. Haddix, and Ms. Roodkowsky.

Motion made by Ms. Colbert to not approve Anfield Estates application, seconded by Ms. Robertson. The vote was 6-3, opposed by Vice-Chair Spoon, Mr. Frazier, and Mr. Andrews. This item was not recommended for approval by the Planning Board.

- Mr. Sullivan stated staff will need reasons for the denial based on the deficiency on this application in accordance with the adopted subdivision regulations. Vice-Chair Spoon asked if there were any board members willing to provide the request from Mr. Sullivan. Mr. Sullivan stated the reason for the denial needs to be reflected in the meeting minutes and on record. It is important if we were to go to litigation.
- Ms. Colbert stated her comments have been recorded earlier, she has heard the information from the public that suggests that there may be other factors that do not meet the regulations. Ms. Colbert asked how much detail are you asking from us. Mr. Sullivan stated you need to site specifically where this application does not meet the subdivision regulations. Mr. Mayer stated that is not how we were voting; we were voting for denial based on whether this is a good plan or not. Ms. Robertson stated there is also a lack of information and we could not make a sound recommendation for approval.

- Ms. Roodkowsky stated we also had additional information presented by a local resident and we need more time to understand and review that information. Also, in my mind the developer did not present enough information to convince me that the residents' concerns have been met. Vice-Chair Spoon stated we have legal timelines we are bound to as a board to make a decision on and we could have residents come to every meeting with new information for months and months. This is the last meeting by the regulations, and we did have to take action tonight.
- Ms. Colbert stated we have voted; we have provided the reasons for the denial and asked Mr. Sullivan if that was adequate to incorporate into the record? Mr. Sullivan stated yes, we will forward those three points to the Board of Commissioners.

2. Request by Mark Ashness, P.E. on behalf of Conservancy Real Estate Group, LLC for subdivision First Plat Amendment (extension), Road Name, and Right-of-Way Extension approval and review and approval of Conservancy at Jordan Lake, consisting of 1524 lots on 1,262.9 acres, located off Old US Hwy 1 parcels #62390, 5774, 5775, 5780, 5233, 60441, 65275, 85343, 65274, 85344, 5558, 5238, 68379, 5570, 85342, 5504, 5211, 5569, 85341, 5519, 85340, 85346, 85347, 5551, 69379, 85339, 5545, 5559, 5502, 5568 in Cape Fear Township.

Ms. Tyson stated the request is for an amendment of the First Plat, to revise the public rights-of-way to private rights-of-way, widen the right-of-way, extend the Construction Plan submittal date, and to receive road name approval. The roadways were approved for a 50' wide public right-of-way. The right-of-way will be increased to 60' wide right-of-way. The public right-of-way is proposed to be converted to private right-of-way and shall follow Section 7.2 D (2) (3) (4) in the Subdivision Regulations.

Section 5.2 (D) 4 states "The first phase subdivision must submit Construction Plan within two (2) years of the approval for First Plat." The deadline to submit for construction plan is March 21, 2024, the request is for six (6) months extension with a deadline of September 21, 2024. Per the cover letter it states, "Chatham County's standard timeline for all subdivision projects is (24) months for submission of Construction Drawings. For smaller to mid-size projects this is a reasonable time frame. For larger projects with significant on-site and off-site infrastructure; additional time is likely required."

Road names were approved at First Plat. When the Estates at Finley Farm first plat was submitted, Emergency Operations released all remaining road names. The road names Adelaide Circle, Ellerston Place, Crystal Downs Lane, Oakland Hills Avenue, Starmount Forest Drive, Lahinch Lane, Somerset Hills Court, Bakers Bay Lane, Ballyneal Drive, Ganton Circle, Carnoustie Court, Saint Andrews Loop, Rock Barn Circle, Sand Hill Court, Muirfield Circle, Kingsbarns Court, Kingston Heath, Pine Needles Lane, Melbourne Trail, Hope Valley Circle, Winged Foot Drive, Sunningdale Circle, Myers Park Trail, Kiawah Circle, Prairie Dunes, Riviera Place, Bandon Dunes Trail, Valderrama Drive, W. Sussex Place, Sawgrass Pond Lane, Royal Birkdale Lane, Mid Pines Place, Swinley Forest Drive, Bethpage Circle, Old Town Court, Wintergreen Court, Victoria Pines Drive, Pine Valley Lane, Woodhall Lane, Cabot Links, Friars Head Place, Shoreacres Drive, Winding Bay Drive, and Whistling Straits Way have been approved by Chatham County Emergency Operations Office as acceptable for submittal to the Board of Commissioners for approval.

On September 21, 2023, planning staff received a call about timbering on parcels within the Conservancy at Jordan Lake boundaries. Staff investigated and discovered the property within the boundaries of Conservancy at Jordan Lake had indeed been timbered and was actively being timbered during the investigation. Planning staff have reached out to the County Attorney to determine what effect this activity has on the First Plat approval.

Ms. Tyson said the Planning Department does not make recommendations on extension requests as this is a policy decision for the Board of County Commissioners. The Planning Department recommends granting approval of the road names Adelaide Circle, Ellerston Place, Crystal Downs Lane, Oakland Hills Avenue, Starmount Forest Drive, Lahinch Lane, Somerset Hills Court, Bakers Bay Lane, Ballyneal Drive, Ganton Circle, Carnoustie Court, Saint Andrews Loop, Rock Barn Circle, Sand Hill Court, Muirfield Circle, Kingsbarns Court, Kingston Heath, Pine Needles Lane, Melbourne Trail, Hope Valley Circle, Winged Foot Drive, Sunningdale Circle, Myers Park Trail, Kiawah Circle, Prairie Dunes, Riviera Place, Bandon Dunes Trail, Valderrama Drive, W. Sussex Place, Sawgrass Pond Lane, Royal Birkdale Lane, Mid Pines

Place, Swinley Forest Drive, Bethpage Circle, Old Town Court, Wintergreen Court, Victoria Pines Drive, Pine Valley Lane, Woodhall Lane, Cabot Links, Friars Head Place, Shoreacres Drive, Winding Bay Drive, and Whistling Straits Way and granting approval of the converting the public road to private road and increasing the right-of-way with the following conditions:

1. A copy of the road maintenance policy shall be provided to planning staff prior to recordation of the final plat.
- Mr. Frazier asked if staff has determined the legal implications on the timbering that took place within this project. Ms. Tyson stated that is regulated by our Watershed Protection department and they are working with the applicant. Ms. Colbert asked when was the First Plat originally approved? Ms. Tyson stated it was approved on March 21, 2022. Ms. Colbert stated this is the same plan that was approved, and they are requesting to make the roads from public to private. Ms. Tyson said that is correct and the private roads would be required to be 60' wide Right-of -Way.

Public Input:

- Vice-Chair Spoon recognized Mr. Brad Ring who asked to speak several days ago via e-mail but was not in attendance this evening. There were no others wishing to speak at this time.
- Mr. Mark Ashness with CE Group asked Mr. Sullivan about the timeline regarding subdivision extensions. The board recently recommended approval for large subdivision projects to be extended from 2 years to 3 years, will that be applicable to our application? Mr. Sullivan stated that has not been before the Board of Commissioners yet and to grandfather existing projects will be part of that discussion. Mr. Ashness stated the agencies that review these projects are not just reviewing for Chatham County, but many surrounding counties and that can cause a delay in approvals for many applications and that is why we are requesting the six-month extension. As far as the road names are concerned, we are just reinstating the names that were previously approved by emergency operations and the other issue deals with the private roads. NCDOT is interesting in which the requirements and what is allowed varies from division to division and district to district of the NCDOT. The district in which we are in the NCDOT has elected to not allow the gravity sewer lines to be located under the pavement whereas the vast majority of the other districts the NCDOT does allow gravity sewer to be located under the pavement. The manhole covers you see in the middle of the road, which is what I am referring to, it is a public road, and the gravity sewer lines are normally placed there under the road pavement. NCDOT in this district is not allowing that and creates a tremendous amount of interference during the construction process with all the other utilities that are out there. It is common sense that the gravity sewer should be located in the middle of the street and that is the main reason for switching from public roads to private roads particularly because this will be a large HOA and will be in a good position to fund the future repairs. The three requests we are bringing before the board tonight are to change the public roads to private with the expanded Right-of-Way, reinstate the existing road names, and the six-month extension for permitting to the construction plans.
- Vice-Chair Spoon stated a lot of the neighborhood has lots that are backed right up to stream buffers, and you are going to have to expand every road by 10 feet, will you be taking 10 feet off of the back of all of those lots? Mr. Ashness stated the lot depths were adequate to take 5 feet from the front of each lot that will be impacted by the wider Right-of-Way. Vice-Chair Spoon stated this will be a big maintenance project for an HOA, you said you will have a fund already started to manage it? Mr. Ashness stated yes you are correct, there is always a fund in place where the developer puts money in to start with and it will not only be for the road maintenance, but also for the amenities proposed for this development as well. There is a fund that has to start initially as part of your HOA dues and that fund will have a third party in which they advise the amount of money that should be placed in it to cover all of the expenses moving forward. Vice-Chair Spoon asked would a switch to private roads impact the interchange from Old US 1 and NCDOT to install a stoplight? Mr. Ashness stated it would not and they are planning on having a turn lane on Old US 1 as well.
- Mr. Andrews said he was glad there was clarification for the difficulties of having a private sewer system under a public road, what about public water under a private road, are there any complications for that scenario? Mr. Ashness stated the sewer system is gravity fed without any pressure and that is usually why you see those under the road. The county water line will be pressurized, and that line will be outside the pavement behind the curb with

all the other utilities such as cable, fiber optic, natural gas, and power lines. So, the outside behind the curb is already pretty full of utilities and putting the gravity sewer in the middle of the road provides the horizontal separation from the pressurized water line which is what the state wants you to have. Moving the sewer utility also behind the curb is exacerbating.

- Ms. Colbert referred to a document on the NCDOT website discussing utilities in the Right-of-Way, which was dated July 2022, and in the supplemental document that was provided by the applicant it was stated that this was a recent determination, could this have not been something you could have foreseen a little bit sooner? Mr. Ashness stated our district does not allow gravity sewer lines to be located under the pavement, we are working right now in Lee, Harnett, and Wake County and those districts offices still as a result of that document allow gravity sewer to be in the street. This is the only district that I am aware of in North Carolina that does not let you put gravity sewer in the street. We have tried to work with NCDOT, and this district will not allow it and it has forced us to make this change. Another thing our client did since the initial approval was a bit of a delay to see what the outcome was for the Moncure Small Area Plan. That policy with the NCDOT on a State level is not being administered, there are gravity sewers in the street everywhere. Ms. Colbert asked if those applications were submitted after July 2022. Mr. Ashness stated we are submitting plans and being approved with sewer under the street right now in Johnston, Lee, and Harnett County's.
- Mr. Mayer asked if the proposal would switch all the roads from public to private. Mr. Ashness stated right now internally we are considering leaving the main parkway as a public road because there will not be any homes located on that road and will not require sewer.
- Vice-Chair Spoon said he would like to hear what happened with the timbering operation on the project. Mr. Ashness stated this is timber property and always has been timber property. The area where there was some select cutting, not a clear cut, in their industry they call it a residential cut, it is where they are cutting the mature pines and leaving the rest. Mr. Ashness showed the board the area on the project where the select cut took place on an approved timber management plan which has been in place and is still in place today. Mr. Ashness said he is not a lawyer, but he knows there are some rights associated with timber management and in other jurisdictions like in Harnett and Johnston County we have crops which have been harvested and now we will begin construction when the application was approved 18 months ago. This is a silviculture operation and there was a select cut just in that one area and this area is designated on the approved conservation plan as agricultural.

Mr. Frazier made a motion to approve the requests by the applicant, second by Ms. Robertson.

Board Discussion:

- Mr. Andrews stated he was part of the first approval and that approval had public roads and I have difficulty with a subdivision of this size with private roads. I have more faith in the government to maintain these roads than I do in a HOA. I am okay with the request for the extension, but I will be voting against this because of the private roads. Mr. Frazier said if that is the only concern for Mr. Andrews, we can separate the motion as needed. Vice-Chair Spoon stated let us discuss more and see how the rest of the board feels about this item. Vice-Chair Spoon said he is also nervous about the switch to private roads and believes it is a huge undertaking for an HOA of that size and if it were not able to accommodate that it could lock in the entire neighborhood. Vice-Chair Spoon stated he is not enthusiastic about the extension request either, this project has been changed from forty some homes to fifteen hundred homes and then back and forth, it does not seem to be settled in the applicants mind as to what they want to do and is a disincentive to granting approval for the extension.
- Ms. Roodkowsky said the main road coming in and out of the neighborhood will be public from my understanding and the roads around the homes will be private. In my experience NCDOT does not get to residents and subdivision roads very early on after a snow fall. Often, we are lucky and the snow melts before they have a chance to come out to clear the roads, but if the main road is public then is that really even a problem? Vice-Chair Spoon said the applicant just noted they will make the parkway a public road, but everything else will be private roads.

- Ms. Colbert stated her understanding of the reason why they are moving the roads from public to private has to do with the utilities. Ms. Colbert asked staff if moving the roads from public to private in any way conflicts with the subdivision regulations and does it meet the requirements? Ms. Tyson stated it is common for an application to come in and have public or private roads proposed and then change them in the future if they realize one would be better than the other. If the applicant does change from public to private, they just have to follow the private road requirements which expand the Right-of-Way from 50 feet to 60 feet and the travel way to 18 feet wide. There are also legal documents they would work with their attorney to provide for the road maintenance funding. There is nothing in the regulations that state they are not allowed to convert the roads.
- Mr. Mayer said let us say they do have private roads and the homeowners cannot keep up with the maintenance for the roads, how does that come back to the county or whose problem is it? Mr. Sullivan stated it is a private matter within the community. There is a period of time when the homeowners are at risk and that is with public roads as well. We have subdivisions right now that will never be taken over by the NCDOT and those roads are in worse shape than HOA maintained private roads.
- Ms. Roodkowsky asked if we could divide the requests into different motions.

Mr. Frazier made a motion to separate the request of the six-month extension as one item, and the public roads to private roads and the road names as a separate item. Motion was seconded by Ms. Roodkowsky. The vote was 9-0, unanimously to separate the requests.

Motion made by Mr. Mayer to recommend approval for the six-month First Plat amendment extension, seconded by Ms. Robertson. The vote was 8-1, opposed by Vice-Chair Spoon. The extension request was approved.

Motion made by Ms. Haddix to approve the road names and the change from public roads to private roads, seconded by Ms. Colbert. The vote was 4-5, opposed by Ms. Haddix, Ms. Robertson, Mr. Andrews, Mr. Frazier, and Vice-Chair Spoon. The road names and request for private roads was not approved.

VII. ZONING ITEMS:

1. A legislative request for a text amendment to the Zoning Ordinance by Dave Gaddis to reduce the minimum acreage requirements for all public or private campgrounds from 20 acres to 10 acres in all districts.

Mr. Sullivan stated a legislative public hearing was held September 18, 2023. Planning staff presented the citizen-initiated request by Mr. Gaddis and received two comments from residents in the Moncure area (Richard McHenry and Anne Stomp). These comments center around the Moncure area in particular and focus on better regulation of the permitting of campgrounds such as time allowed, record keeping, visual impacts of the spaces, etc.

In 2006, the Board of Commissioners approved a reduction of the minimum 20-acre requirement to 10-acre minimums in the zoned portions of the Haw River Township only. Public and private recreation camps and grounds are only permitted within the residentially zoned areas of the county with an approved Special Use Permit.

Section 19 of the Zoning Ordinance allows for citizens to initiate text amendment changes based on information they believe to be supportive of the request.

Section 17.5.B includes the current requirements for public and private recreation camps and grounds. Should this amendment be approved, the minimum lot area would apply to all residentially zoned areas of the county.

The applicant states in the supporting summary, there are two campgrounds that have been approved since the 2006 amendment that are located on 10.01 and 10.35 acres (Chatham RV Park and Jordan Dam RV Park) therefore setting a precedent to support the amendment.

Since the Comprehensive Plan was adopted in 2017, development is being guided to specific areas and two industrial mega sites have started developing over the last two years. Housing options for temporary workers are difficult to find in the county and this may help fill that gap.

Mr. Sullivan said the Planning Board has up to three meetings in which to make a recommendation for approval or denial to the Board of Commissioners. The Planning Board will also need to approve a consistency statement indicating how the amendment supports the Plan Chatham if there is a vote to recommend approval.

- Vice-Chair Spoon asked what is the tax difference for lots between an RV park and a mobile home park? Mr. Sullivan stated he reached out to Ms. Williams with the Chatham County Tax office, and she said that RV sites are \$2750 per site and mobile home sites are \$4000 per site. Vice-Chair Spoon asked how many RV spaces could fit on a 10-acre parcel after subtracting the roads and buffers versus a 20-acre parcel? Mr. Sullivan stated the watershed district is what will dictate that number. Some districts allow 36% built upon area so on a 10-acre parcel, 3.6-acres will be allowed for RV sites, but it would be difficult to say exactly how many sites that would be. Another factor is the fire code, the sites would require some separation, so they are not so tightly packed together.
- Mr. Mayer asked what zoning districts will allow RV parks? Mr. Sullivan stated any of the residential districts. If you were in an R-5 district you are allowed 12% built upon area and if your parcel is 10-acres, you would be allowed 1.2 acres for the RV park.

Public Input: No residents were present to speak for this item.

- Mr. Dave Gattis the applicant said he is here tonight with his neighbor Ms. Penny and are both residents of the Albright district, which is about 4 miles north of Siler City, it is relatively a rural area. Many of the residents in that area have 10 plus acre lots. We are asking for this consideration because these 10 to 20-acre lots are often wooded or fields and there is an opportunity to have a few camp sites and there is certainly a need for them. On the west side of Chatham, we have Wolfsped developing on the megasite, in Liberty the Toyota battery plant is being developed, and in Moncure the VinFast operation on that megasite. The other day I was at the gym, and I heard a guy talking on the phone with a midwestern accent and he was saying he could not find a camp site within 50 miles of where he was working. He was one of the hundreds if not soon to be thousands of contractors working at one of these three megasites. We wanted to provide this opportunity to other residents with large acre lots. At the same time, I do not see a flood of Chatham residents applying for this use because it does take a lot of work. There is water, electricity, and septic that the owner has to supply for this RV park and there is a lot of upfront capital that is required to complete this and it will require a serious person to initiate a project like this. There are also two exception to the 20-acre requirement, and this will help make things consistent throughout the county. Mr. Gattis thanked the Planning Board for their consideration of the text amendment.
- Mr. Frazier asked for clarification that RV parks all require a special use permit in residential areas before they are approved to exist. Mr. Sullivan said, yes that is correct. Ms. Haddix said she had noted that as well, so if we vote to recommend approval of this text amendment change, the applicant still has to apply for a special use permit.
- Ms. Robertson stated when we were discussing the Moncure Small Area Plan we talked about having a lot of camp sites and RV sites might encourage people to use them during the work week, but then leave and go back to their permanent out of county or state residents. Vice-Chair Spoon stated yes, that was in the market study section for the Moncure SAP, they explained how other megasite communities have had RV parks with people using them that live 150 to 200 miles away, they would stay in the camper during the week and go home on the weekends. Ms. Robertson asked how would this impact that thinking, would this open the floodgates to that? Vice-Chair Spoon stated they would still require the special use permit step before it would be approved, but it would allow it to be contemplated by a lot more residents who own 10-acre parcels.

Motion made by Mr. Frazier to recommend approval for the zoning ordinance text amendment, seconded by Mr. Andrews.

Board Discussion:

- Ms. Colbert stated she is concerned about how many parcels will be impacted, in what context, and where in the county. I cannot tell you if I agree or disagree with this request, but the applicant did not make a persuasive argument as to how this text amendment would be better for the county as a whole. I am also reluctant to say that just because two unique parcels elsewhere may have been granted the opportunity for a camp site sets a precedence for the entire county. Ms. Colbert stated it is a bad idea for us to move forward on this without receiving more information and what the impact would be throughout the county.
- Mr. Mayer asked if this item was before another board for public input. Vice-Chair Spoon stated this item had a public hearing held in September. Mr. Sullivan stated we did receive comments during the public hearing, and he pulled up the comments on the screen for the members to read.
- Ms. Colbert stated the public comments do raise some serious issues and concerns, people will be cycling in and out of the RV parks and there can be some that make it into a permanent living situation. This would be difficult to monitor and enforce even if there are violations. Having this county wide without having a better analyses with the impacts of adjoining properties and neighborhoods I would urge everyone here to not approve this item at least at this point, not only because of the concerns raised by the public input, but also how this could filter out on a county wide scale.
- Mr. Andrews stated he does not feel the Planning Board is giving up any kind of authority by approving this text amendment as long as we still have the special use permit process. We can look at these on an individual basis one application at a time. Ms. Haddix said she agrees with Mr. Andrews, I also agree with Ms. Colbert that this does warrant further research. I also understand that we need more affordable housing and there are a lot of people who are trying to work and live in Chatham and cannot afford a house here. The special use permit process does allow us to approve or deny applications on an individual basis. Mr. Mayer stated he is okay approving the 10-acre request, but as a whole this policy needs work. Ms. Robertson stated the special use permit is a safety net which is good, but the other concern is will we be overrun with applications.
- Ms. Colbert asked if this topic is something we could work on within the Unified Development Ordinance (UDO), right now this is not ready for approval, but we can research this topic and create something within the UDO that will address this. Vice-Chair Spoon stated that because this is a citizen-initiated text amendment request we do need to take action on this application either approved or denied. We can discuss and address this topic within the UDO if it is desired, but we will need to take action on this item. Mr. Andrews said we could vote to approve this item and still work on it during the UDO. Vice-Chair Spoon said yes, we can, but we might have applications pending and then as we look at the UDO, we realize we do not want to have 10-acre parcel RV parks then we have to address applicants with potential vested rights.
- Mr. Frazier said we do not need to vote on this item tonight, we do have three meetings to discuss this application. However, I think we should go forward and make a decision tonight because I do not feel that the facts are going to change. The situation is simple, there is not nearly enough affordable housing in the county, there is going to be a lot of people coming in to work on these megasites. We want the sites, so we need to accommodate the workers who build them. There is protection through the special use permitting process where the neighbors are upset about it, they will have a chance to comment, and we can talk about it.
- Ms. Roodkowsky said it seems the problems and concerns being raised by the public comments are not necessarily about the size of the acreage, but how the RV parks would be used. People who are not residents but are using and potentially straining the public services. To me the issue is not so much the size of the parcel, but rather having a set of standards so that it is managed properly. I also agree that it should be part of our UDO discussions, but what will happen to the RV parks that already exist, will they be grandfathered? Vice-Chair Spoon said yes, the UDO will be proactive not retroactive, so existing RV parks would be grandfathered, which creates the concern is if we change this threshold and then have the UDO be adopted 18 months from now, will the new regulations match. Ms. Roodkowsky feels the real issues is how they are managed, not the size of the parcel and if we can address the standards within the UDO, I am in favor of approval for this text amendment. Vice-Chair Spoon said in the absence of enforcement rules having more possibilities for the RV parks will change things.

There was a vote to approve the zoning ordinance text amendment, and the item was approved 5-4, opposed by Vice-Chair Spoon, Ms. Colbert, Ms. Hernandez, and Ms. Haddix.

- Mr. Mayer wanted to reiterate that the RV park's existence is not about the size, but rather how it is managed. Mr. Frazier said it seemed to me that the concerns were that people would make the RV their permanent residents when the ordinance will not allow the resident longer than a 6 month stay, I did not see anything about poor management or misconduct.

Motion made by Mr. Frazier to approve the consistency statement, **“since the Comprehensive Plan was adopted in 2017, development is being guided to specific areas and two industrial mega sites have started developing over the last two years. Housing options for temporary workers is difficult to find in the county and this may help fill that gap.”** Seconded by Mr. Andrews, and the consistency statement was approved 6-3, opposed by Vice-Chair Spoon, Ms. Colbert, and Ms. Hernandez.

2. A legislative request by the Chatham County Board of Commissioners to consider amendments to the Chatham County Zoning Ordinance; specifically, Sections 7.2 Definitions and 10.13 Table of Permitted Uses to make changes to in-home childcare regulations.

Mr. Glenn stated the Public Hearing was held at the Board of Commissioners meeting on September 18th and there were no comments from the public. However, the commissioners did have some questions about updated language. Specifically, if the proposed updates to the Zoning Ordinance were in line with what other counties and jurisdictions were doing. Planning staff informed the commissioners that the new definitions proposed come from the statutory language for Childcare in North Carolina. Staff used information from the DHHS website and the Chatham Partnership for Children to formulate the new definitions. The biggest change is removing the requirements for a Special Use Permit. Day care centers and Family Care Homes located in principal residences will now be allowed by right in residential zoning districts if they meet all other requirements.

After several planning board members had questions about the changing language and definitions, Planning Staff decided to pull the item and work on providing more clarity. Planning Staff set up a meeting with DHHS staff in order to better understand the state statutory framework for family childcare home regulations. After that meeting, it was decided to change the definition of Family childcare home, and to not change the language for Day Care Centers in the principal residence. Those can still have up to 15 children but would need to go through the SUP process.

The new definition for Family Childcare Homes is a licensed childcare facility within a principal residence to care for five (5) or fewer preschool age children, and an additional three (3) school age children. This includes preschoolers living in the home, but the provider's own school age children are not counted. If this change is approved by the Board of Commissioners a licensed childcare provider will be able to provide care in their own home for up to 9 children (including their own school aged children) without going through the Special Use Permit process. This use would be allowed by right in residential districts.

If the Planning Board thinks the request should be approved, the following consistency statement is provided for consideration.

The Request to amend the Zoning Ordinance is consistent with Plan Chatham, the adopted comprehensive plan, pursuant to Objective 9 Provide equitable access to high-quality education, housing, and access to community options for all; specifically providing diversity of education options (public, private, STEM, magnet) and support services.

Mr. Glenn said to discuss the request and provide a recommendation on the text amendment and a consistency statement to the Board of Commissioners.

- Mr. Frazier said the family childcare home can have a maximum of eight children, does it have to be five pre-school children, or can it be eight school aged children? Mr. Glenn said it can be eight school aged children, but it could be nine, if one of the children is your own child. Ms. Roodkowsky asked for some clarification because it seems like the way it is written you could have up to 12 children in the home. Ms. Colbert pulled up the State Statute 110-86 and it specifically states 9 or fewer children. Vice-Chair Spoon said that is his understanding, the more children you have as your own, you will subtract the amount of children that are not your own within the childcare program. The max by right will be nine children. Mr. Glenn stated you can have up to 15 children, but they will be required to go through the special use permitting process.
- Ms. Colbert stated California has a similar statute concerning childcare where they allow small scale childcare within a residential district and it has been used in that state for many years, and this is something very similar because it is confined to residential districts and is on a small scale. These small in-home childcare operations will still require all of the state safety requirements and regulations. Vice-Chair Spoon said this was requested by a non-profit, there is a serious lack of childcare options in Chatham County so this is something that will add flexibility to allow for that need to be fulfilled. We tried to keep the threshold low out of consideration for people who work from home or retired neighbors, and this seemed to be the best way to be in line with the state statute and what we are hearing from parents who are in need of childcare.

Motion made by Ms. Roodkowsky to approve the consistency statement, **“the request to amend the Zoning Ordinance is consistent with Plan Chatham, the adopted comprehensive plan, pursuant to Objective 9 Provide equitable access to high-quality education, housing, and access to community options for all; specifically providing diversity of education options (public, private, STEM, magnet) and support services.”** Seconded by Ms. Haddix. There was a vote, and the consistency statement was approved 9-0, unanimously.

Motion made by Mr. Mayer to recommend approval for the zoning ordinance text amendment, seconded by Ms. Colbert. There was vote, and the zoning ordinance text amendment was approved 9-0, unanimously.

VIII. NEW BUSINESS:

IX. BOARD MEMBERS ITEMS:

1. Update from the Planning Board liaisons.

- Ms. Robertson stated she was not able to attend the Pittsboro Planning Board meeting.
- Ms. Colbert and Ms. Hernandez were not able to attend the Siler City meeting.
- Vice-Chair Spoon stated the UDO subcommittee met and discussed two subchapters, building designs and signage. The next UDO subcommittee meeting will be held on November 30th.

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

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

3. Vote on 2024 Planning Board meeting calendar.

The Planning Board members reviewed the 2024 Planning Board meeting calendar and moved the January meeting to the 9th and the November meeting to the 12th. Motion made by Ms. Robertson to approve the Planning Board 2024 meeting calendar, seconded by Mr. Frazier. There was vote, and the calendar was approved 9-0, unanimously.

- Vice-Chair Spoon said he appreciates the correspondence and a group of people that want to make the board run smoother, but we do need to be cautious when we do have correspondence and the details we discuss.

- Ms. Haddix said she will provide a written statement for the reason of denial for the Anfield Estates subdivision item so the Board of Commissioners are informed of the Planning Board recommendation.
- Ms. Colbert said in 2024 we will need to elect new officers in February and one of the things I think would helpful and beneficial as be part of that session is to have a discussion on the rules & procedures and ethics of the Planning Board. Vice-Chair Spoon said we are looking for an agenda that will allow us time for those discussions. We only have a few options that will allow us to have a closed session, but meeting with and receiving advice form the County Attorney is one of them.

X. PLANNING DIRECTOR'S REPORTS:

Mr. Sullivan reported on the following:

1. Minor Subdivisions / Exempt Maps - See Attachments
2. November 20th Public Hearing Items, packets have been provided at your seat.
3. We will be having the utilities director visit for a brief discussion about sewers in Chatham County. We are also talking with the County Attorney for a meeting with him and possible School of Government resources for the Planning Board.
4. Unified Development Ordinance Update.
The UDO draft has been moving forward and there will be more to review soon.

XI. ADJOURNMENT:

There being no further business, the meeting was adjourned at 8:50 p.m.

Signed: _____ / _____
Jon Spoon, Vice-Chair Date

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