



Chatham County Planning Board Minutes April 2, 2024

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

Present

Jon Spoon, Chair	Mary Roodkowsky, Vice-Chair
Tony Mayer	Shelley Colbert
Amanda Roberson	Eric Andrews
Nelson Smith	

Absent

Clyde Frazier
Norma Hernandez
Elizabeth Haddix

Planning Department

Jason Sullivan, Director and Hunter Glenn, Planner II.

I. CALL TO ORDER:

Chair Spoon called the meeting to order at 6:30 p.m.

II. DETERMINATION OF QUORUM:

Chair Spoon stated there was a quorum, 7 members were present. Ms. Hernandez, Ms. Haddix, and Mr. Frazier were absent.

III. APPROVAL OF AGENDA:

Approval of the Agenda – Chair Spoon asked that the February 20th and March 5th meeting minutes be voted on separately and also move the Laurel Ridge Phase 1B Final Plat item from consent to the regular agenda. Motion made by Vice-Chair Roodkowsky to approve the revised agenda, seconded by Ms. Colbert. The agenda was approved, 7-0, unanimously.

IV. APPROVAL OF THE MINUTES:

Consideration of the February 20, 2024 special meeting minutes. Motion by Ms. Robertson to approve the February 20th minutes and seconded by Ms. Colbert, the minutes were approved 7-0, unanimously. Consideration of the March 5, 2024 meeting minutes. Motion by Mr. Mayer to approve the March 5th minutes and seconded by Ms. Robertson, the minutes were approved 5-0, unanimously, abstained by Chair Spoon and Ms. Colbert because they did not attend the March meeting.

V. PUBLIC INPUT SESSION:

- Mr. John Alderman of 439 Rising Ridge spoke and stated he lives on a tree farm and was one of the first two endangered species biologist with Wildlife Resources Commission. Mr. Alderman said he worked the entire state of North Carolina and at retirement he started his own business doing the same kind of work. His work area expanded to Washington D.C to Florida and western Oklahoma. One of the greatest problems we have in the world, particularly the southeast United States, is habitat loss. It is frightening what we are seeing in our landscapes across the southeast. As a tree farmer I should not have to worry about all these little rezoning proposals that comes to Chatham County. When it comes to conditional use zoning such as proposals like cricket fields in the middle of nowhere behind a church that has been there for maybe 200 years. Those kinds of activities pulls me away from what I should be doing, which is managing my tree farm. My work has a lot to do with conservation, carbon sequestration, and reduction of timber frame. A lot of the other agricultural-minded people and myself do not want to worry about conditional zoning. We are talking about a half a billion dollars a year coming into Chatham County from agriculture and silviculture, that is a lot of money you can count on year in and year out.

Mr. Alderman said he has a long history in conditional zoning, it used to be called spot zoning and contract zoning. In the 1980's we sued Chatham County over spot zoning and contract zoning and the legislature morphed it into something called conditional use zoning and we still are using it now. It is basically putting lipstick on a pig, when you take land that should be agricultural or silvicultural land, the cricket field in particular, that was zoned by a timber company. We need to put an end to that kind of activity in Chatham County if we want to conserve agriculture and forestry in the future for our children and our grandchildren. We have to stop this kiss of death, conditional use zoning, you cannot stop the proposals from coming in, but you can do this, only entertain conditional use zoning if it is related agriculture and silviculture. That way you preserve the agriculture and silviculture into the future. If you fail to do that, it will be just like what has happened in Mecklenburg County, the forester of that county only managed 15% of the county and that was 30 years ago. Mr. Alderman said he warned the Chatham County Commissioners 30 years ago that we will become the next Johnston County and we are going in that direction quickly. At least protect agriculture and forestry and only consider a rezoning if it is related to those uses.

VI. SUBDIVISION ITEM:

1. Request by Nick Robinson, Attorney on behalf of Laurel Ridge Development, Inc. for subdivision Final Plat Revision and Recombination review of Laurel Ridge, Phase 1B, consisting of removing stub-out to parcel 66108, located off private road Brook Green Lane parcel 95012 and 95013.

Mr. Sullivan said the request is for Final Plat Revision to remove the 60' wide private right-of-way located between lots 27 and 28 that access parcel 92441. Per the letter of explanation, "at the time of the original approval, the "stub-out" was appropriate because the adjoining parcel was a large tract that was possibly landlocked." Parcels 92441 and 66108 have the same ownership and parcel 66108 has 2,000 linear feet of road frontage on Old Graham Road and shares a boundary line with parcel 92441. The applicant has conferred with the owner of the parcels 92441 and 66108 and confirmed the owner of the parcels supports eliminating the stub-out between Lots 27 and 28.

The request is also for the recombination of lots 27 and 28. Lot 28 will increase in size from 3.831 acres to 5.606 acres and lot 27 will decrease in size from 7.373 to 6.210 acres. Recombination plats are approved administratively. The Technical Review Committee met March 13, 2024, to review the request. Nick Robinson and Hadley Kirkland were present. The Chatham County Historical Association asked about the cemetery on lot 16 and the status of a plat showing the cemetery. Staff stated an exempt plat will be created showing the cemetery and access to the cemetery and stated the plat will be approved administratively.

Mr. Sullivan said the recommendation is to vote to approve the request for the final plat amendment of plat titled "Recombination Plat Lot 27 & 28 – Estates at Laurel Ridge Phase 1B".

- Ms. Colbert said this is a pre-2008 regulation and it references adjoining parcels that are landlocked to be provided access. It seems like it was references not only for landlocked parcels but also for parcels large enough for development down the line. Ms. Colbert said she has two questions, by eliminating this, does that really meet the requirements of the pre-2008 ordinance in terms of the intent of them and secondly, that parcel is still landlocked, is it not? Regardless of change of ownership, that parcel is still landlocked and does it really meet the requirements. Mr. Sullivan said he thinks it does because the pre-2008 regulations references public roads and public Rights-of-Way. Ms. Colbert read the section of the pre-2008 ordinance, "when necessary, provide public street access to adjoining landlocked properties or connectivity to large tracts for future development potential proposed public streets." Mr. Sullivan said that is why there was that requirement for the original approval to provide access to that tract, but now they are converting it to a private Right-of-Way. So, that stipulation will not apply to this particular scenario. Ms. Colbert said okay, thank you.
- Ms. Colbert said in the application there was no indication that the neighbors were contacted or identified as well as the applicant identified and we have not heard anything from the landowner themselves, so at this point what, if any, risk is there for the county in doing something like this. There has not been any notice to the neighbors and are we at risk of any liability, what do we have that can support this decision? Mr. Sullivan stated as far as the liability of the county, we are not at risk because this is converting to a private Right-of-Way and it does not guarantee access to adjoining property. We have seen in other subdivision such as Legacy at Jordan Lake, where through the zoning and subdivision process, they provided stub outs to landlocked properties and the property owner that was landlocked had to contact the developer to make sure they can utilize that private road stub out so the landlocked property has access. Ms. Colbert said thank you.
- Chair Spoon asked Mr. Nick Robinson if there was anything provided in writing from the property owner that this is what they want regarding their access? Mr. Robinson stated he is here tonight on behalf of the applicant and said there was a series of communication between the developer and the current landowner and Mr. Robinson provided an email exchange after the property owner and developer had a video conference. The landowner response was, "it had been nice to meet you and thanks for the time, we understand and support your intensions with the neighborhood and the stub out." Mr. Robinson offered the correspondence to anyone on the board who wanted to see it.

Motion made by Vice-Chair Roodkowsky to approve this item, seconded by Ms. Robertson. There was a vote and the item was approved 6-0, Mr. Andrews recused himself.

VII. ZONING ITEM:

1. A quasi-judicial request by 1535 King Road LLC for a Special Use Permit on parcel 95385, zoned Heavy Industrial, located at 1535 King Rd., being approximately 18.685 acres, for an asphalt manufacture or refining plant, Cape Fear Township.

Mr. Sullivan stated a public hearing was held on February 19, 2024, and continued until March 18, 2024. Planning staff as well as Nil Ghosh, attorney for the applicant, presented the request. There were several expert witnesses that provided information as to the findings to support the use. This included a special report prepared by Spangler Environmental, Inc. that found all findings in the application were supported. A special report is required for certain uses identified in the table of permitted uses and the requirements are found in Section 17.9 of the Zoning Ordinance.

Also speaking were Jared Matthews with Curry Engineering on well water and septic, Jason Hamilton with Exalt Engineering on the traffic impact analysis, Jarvis Martin for the market analysis, and Bob Zarzecki, environmental specialist with S & EC who prepared the Environmental Impact Assessment which was reviewed by the Environmental Review Advisory Committee (ERAC) and Spangler Environmental, Inc.

There was a community meeting that was held January 4, 2022, and no one attended, and no concerns noted.

The applicant met with the Chatham County Appearance Commission on August 23, 2023, to review the proposed site plan. There were more diverse plant selections recommended and the applicant agreed to revise the plan accordingly. All other information was recommended for approval.

One citizen spoke, John Alderman, from the Hickory Mountain Township to voice concerns because of the Sugar Lake Road plant that has ground water contamination from years ago that is still being monitored by NCDOT and local environmental health officials. Attorney Ghosh objected to allowing Mr. Alderman to speak stating he has no standing to bring expert witness due to quasi-judicial process.

Also speaking was Elaine Chiosso, chair of ERAC, to provide information from their review of the EIA. Attorney Ghosh objected stating they do not have a legal requirement to provide any information on this matter. The county attorney, Bob Hageman, stated to the Board that per NCGS 160D-301A, there is no ordinance to allow information from ERAC for a quasi-judicial matter and any information provided could not be used in making a decision to approve or deny. She did not provide testimony for this item.

When determining whether a Special Use Permit request should be approved as per Section 5 Conditional Zoning Districts, the following findings must be supported.

Concerns by the Board noted were for the market analysis. Commissioner Howard requested additional information about residential properties close to other asphalt plants in more rural areas. The Board voted to keep the public hearing open until the next month to provide the applicant time to bring more market information.

1. **The alleged error in the Ordinance, if any, would be remedied by the proposed amendment with a detailed explanation of such error in the Ordinance and detailed reasons how the proposed amendment will correct the same.** No error in the Ordinance is being claimed. The proposed use is allowed subject to approval of a special use permit.
2. **The requested special use permit is either essential or desirable for the public's convenience or welfare.** The existing road network is under capacity and the proposed use will not increase beyond the allowable capacity per NCDOT. No additional road improvements are required for this use. Lighting will be used that complies with county regulations. Nighttime operations will be conducted under special circumstances and not on a regular basis.

There are currently no residential uses adjacent or adjoining this property. Noise levels are those expected with normal activity from back up alarms from trucks, general operation noise, and traffic. Levels are expected to be under the 60 decibels allowed by the Chatham County Noise Ordinance.

An air control permit has been issued by the NC Department of Air Quality as deemed consistent with state regulatory requirements. NCDEQ will also monitored for a Spill Prevention, Control, and Counter Measure plan.

It is anticipated to utilize a well for water for fire safety.

- 3. The requested permit will not impair the integrity or character of the surrounding or adjoining districts, and will not be detrimental to the health, safety, or welfare of the community.** There is one other active use opposite King Road located in the Heavy Industrial area, a sawmill mulching operation. No other uses are adjacent or adjoining. Duke Energy also owns property adjacent to this property, a portion of which is associated with nuclear facility located in Wake County.

With the new configuration of the roadway network from NCDOT due to the growth in the Moncure area, including Vinfast, having an asphalt plant closer will keep excess traffic off other roadways creating a shorter haul distance to various projects.

There are two existing asphalt operations in the County located on Pea Ridge Road and Sugar Lake Road.

Tax value will increase and employment opportunities will be available.

- 4. The manner in which the proposed amendment will carry out the intent and purpose of any adopted plans or part thereof.**

Chapter 2, page 21 – shows the property within the Industrial Suitability area being close to existing compatible uses and access to adequate transportation infrastructure.

Chapter 3, Goal 4, page 41 – encourages diversifying the tax base and providing more employment opportunity to reduce dependence on residential tax bases.

Chapter 4, page 61 – encourages clustering development in designated areas. This area is already used for industrial purposes and residential uses are not adjacent to or adjoining this property. Duke Energy owns the majority of properties surrounding this parcel and are currently under present use value with the county tax office.

Page 103 – Natural Resources – This project drains to Harris Lake watershed of the Cape Fear River Basin. The designation does not prevent land uses such as being proposed however does encourage to minimize impacts to surface waters. There will be a 100 ft protected riparian buffer around the normal pool elevation of Harris Lake as well as a 100 ft vegetated buffer around the perimeter of the property. However, stormwater measures and septic fields will be located within these areas. This project respects riparian buffers and minimizes stream crossings.

- 5. Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary facilities have been or are being provided consistent with the County's plans, policies, and regulations.** A well will be used to service to the site the required setbacks from wells will be observed. A private septic system will be used for wastewater.

Diversion ditches will direct all site runoff to permitted stormwater basins with skimmers prior to discharge. Quarterly sampling at the discharge points is a requirement of the NC Department of Environmental Quality (NCDEQ).

The aboveground fuel and liquid asphalt tanks will also be regulated and inspected by NCDEQ which all exceed any county standard requirements.

Under the Zoning Ordinance procedures, the Planning Board may review the proposal for recommendation of approval or denial to the Board of Commissioners. The Planning Board has up to three meetings to conduct this review. However,

Special Use Permits under the quasi-judicial process are specific in that no other evidence may be presented outside of the public hearing but clarifying questions to materials submitted may be permissible.

A consistency statement has been provided for consideration of an approval:

- The special use permit for the proposed use is consistent with the Comprehensive Plan by being located within an existing area suitable for industrial use and being currently zoned Heavy Industrial.

Should approval be granted, the following conditions will apply:

Site Specific Conditions

1. A building permit shall be obtained and remain valid at all times within two years of the date of this approval or this approval becomes null and void.
2. The recommendations from the Chatham County Appearance Commission shall be implemented into the site plan and provided to the Planning Department at the time of applying for the Commercial Zoning Compliance Permit. The CCAC and/or planning staff may conduct site visits at any time to confirm vegetation and plantings are being maintained and continue to provide the required screening as directed by Ordinance.

Standard Site Conditions

3. The application, standards and adopted regulations of the applicable ordinances and policies, and the approved recommendations as provided for and/or conditioned, are considered to be the standards as set forth and shall comply as stated. Changes to or variations from any requirements of this permit must be approved through the Planning Department or other approving board before any such changes can take place.
4. All required local, state, or federal permits (i.e., NCDOT commercial driveway permits, NCDWQ, Chatham County Land and Water Resources, Watershed Protection, Building and Fire Inspections, and Environmental Health Division, etc.) shall be obtained, if required, and copies submitted to the Planning Department as part of the approval process.

Standard Administrative Conditions:

5. Fees - Applicant and/or landowner shall pay to the County all required fees and charges attributable to the development of its project in a timely manner, including, but not limited to, utility, subdivision, zoning, and building inspections.
6. Continued Validity – The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditions listed above.
7. Non-Severability – If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
8. Non-Waiver – Nothing contained herein shall be deemed to waive any discretion on the part of the County as to further development of the applicant’s property and this permit shall not give the applicant any vested right to develop its property in any other manner than as set forth herein.

- Chair Spoon asked the applicant to provide their statements and reminded the board if they have any questions they need to pertain to existing evidence.
- Mr. Ghosh said he is representing the applicant and will address any questions the board may have.
- Chair Spoon opened the item to discussion and stated we are working on the sequence of this process so in the future we as the Planning Board can be more of a service and a public forum on the onset of this process. Ms. Colbert asked what are we supposed to do with this. Chair Spoon said we should make a recommendation to approve it because it is all within a heavy industrial area and they are required to conduct a special study because it is a certain type of business. Note the issue you may have with it and make them part of the solutions for the future. Vice-Chair Roodkowsky said it is not

clear why attorney Ghosh objected to allowing Mr. Alderman to speak because he did not have standing and why Ms. Chiosso was not permitted to speak at the public hearing, because it seems like that is information that should be considered for a decision by the Board of Commissioners. Mr. Sullivan stated it really boils down to the legal parameters and standards associated with the Special Use Permit.

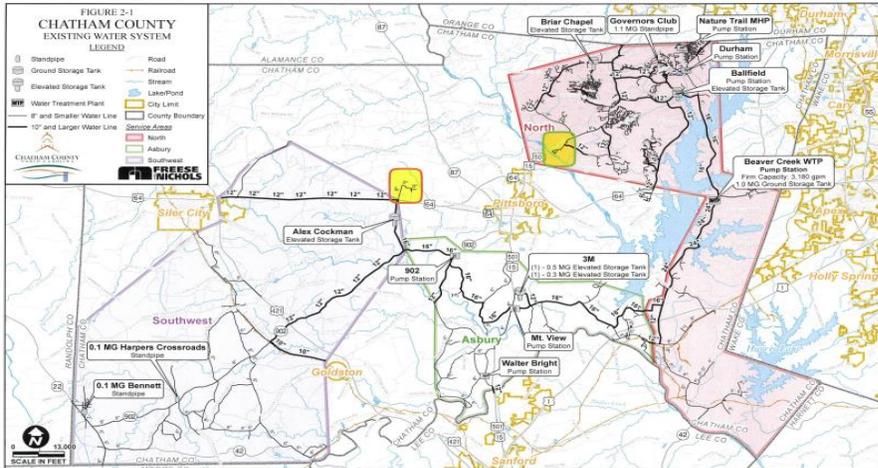
- Chair Spoon asked for a brief explanation as to why there was an objection to allowing those speakers at the public hearing. Mr. Ghosh said the first speaker Ms. Chiosso said she was speaking on behalf of the Environmental Review Advisory Committee (ERAC) and that advisory board does not have any role at all in the Special Use Permit process and they are not empowered to give that testimony at the public hearing as a board. The objection was that the ERAC did not have standing. Mr. Ghosh said Mr. Alderman also had a lack of standing and that was the reason for the objection, because Mr. Alderman did not own any property near the parcel proposed for the rezoning. Mr. Sullivan stated it is not a question of the expertise for the people that were speaking, the objection was solely based on they did not have standing in this quasi-judicial process. Ms. Robertson asked what are the next steps for this project because the biggest concern is the proximity to a body of water. Mr. Sullivan said once the Board of Commissioners approve it the applicant will go through the process of receiving all of their regulatory permits from NCDEQ and the Division of Air Quality. The county stormwater program will look at the site plan and make sure all of the watershed control measures are correct as well as the state.
- Ms. Colbert said regardless of what happens today, if this item is approved or not, it will not have any impact on what the commissioners could consider, is that correct? Mr. Sullivan said that is correct. Mr. Mayer said this seems like it has already decided. Ms. Robertson asked if we are allowed to abstain. Chair Spoon said yes, we can abstain, but we could be at a dead lock and not recommend anything, but the commissioners will do what they are required to do. Ms. Colbert asked if we could not provide a recommendation. Chair Spoon said we should vote and provide a recommendation. Ms. Colbert asked if an abstention counted as a yes vote. Mr. Sullivan said per the Roberts Rule, an abstention does count as a yes vote. Mr. Mayer said he understands we need an asphalt plant here to build everything that is going on in this area and this is obviously an industrial area where it kind of use belongs, however this is lake front and would make a great location for a park. Mr. Mayer said what we are expressing is not so much the plan but the process and the location. Vice-Chair Roodkowsky said if we look at the conditions and the findings that should be supported, #2 says "is the special use permit either essential or desirable for the publics convenience or welfare," and without input from ERAC we do not have all of the information to make a decision. Finding #3 "the requested permit will not impair the integrity or character of the surrounding or adjoining districts and will not be detrimental to the health, safety, or welfare of the community." Vice-Chair Roodkowsky said it is the same feeling, without input from ERAC there is not enough information. Although the need for an asphalt plant closer to the growth in Moncure is compelling, not sure it balances out the lack of information.
- Chair Spoon said we are working with the process and we will have a voice in the future. Mr. Andrews said as far as the process is concerned, he has concerns about standing and it needs to be clarified, because any resident of Chatham County should have standing. Mr. Andrews said he is very familiar with this area and Mr. Mayer may want to build a park there, but it is a park that would not be visited. This is a heavy industrial area, very industrial. Mr. Andrews also stated during our meeting with the county attorney he informed us that in the history of the North Carolina litigation when it comes to conditional use rezoning there has never been a case where a conditional use permit being denied has been overturned, that was an interesting point. We need to understand at this point our recommendation does not hold any weight and we should move forward and get this item moved on.

Motion made by Vice-Chair Roodkowsky to approve this Special Use Permit, seconded by Mr. Andrews. There was a vote and the Special Use Permit was approved 3-2-2, opposed by Mr. Smith and Ms. Robertson, abstained by Mr. Mayer and Ms. Colbert.

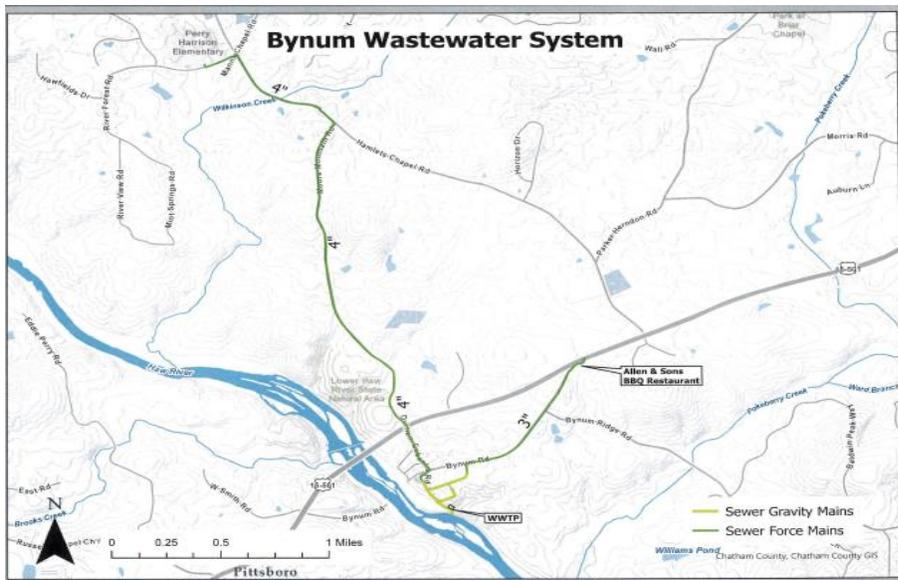
VIII. CHATHAM COUNTY WASTEWATER:

Wastewater treatment information from Chatham County Public Utilities Director Blake Mills.

- Chair Spoon stated we will now here a presentation from the Chatham County Public Utilities director, Mr. Blake Mills.
- Mr. Mills said he has been with the county just over two years and was formally with the Town of Clayton for 3.5 years, and before that with the Town of Warsaw as a county engineer for 5 years followed by 11.5 years as a public works director for the Town of Morrisville. Mr. Mills said he is originally from Winnipeg Manitoba, Canada and attended the University of Winnipeg and graduated with a civil engineering degree. Mr. Mills worked for a private engineering consultant in Winnipeg and worked in the land development field for 16 years. Mr. Mills said he moved to North Carolina in the year 2000.



- Mr. Mills said Chatham County currently has three public water systems. In red, the north system, in green is the Asbury system, and purple is the southwest system. The north system is located on Beaver Creek Road and serves over 11,200 customers with daily demands of 2.8 million gallons a day. On this map highlighted in yellow are the wastewater sewer systems that Chatham county manages. The wastewater area is much smaller in relation to the public water systems.

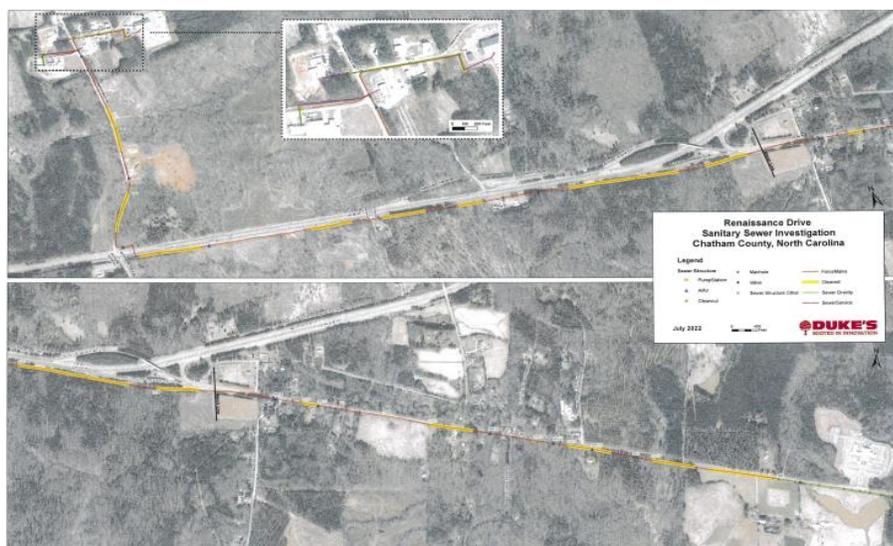


- Mr. Mills said this is the Bynum wastewater system and is located just north of the Haw River and east of Hwy 15-501. This system was built for a cotton mill in 1971.



- Mr. Mills stated within the Bynum area there is about 3000' of gravity mains and a wastewater treatment plant with a capacity of 25,000 gallons per day. This is very small in terms of wastewater treatment plants. This system only has 42 houses connected to it plus an elementary school and the Allen & Son's BBQ restaurant. The school and the restaurant have their own force mains for the system. The cotton mill closed in 1981 and the county inherited this wastewater system and has been operating it ever since.
- Chair Spoon asked if this system is in good operating order. Mr. Mills said it is an older system, it does work effectively, but it does need upgrading to modernize it. Chair Spoon asked if there was pressure to use the unused capacity? Mr. Mills said there is not any pressure to use it and we are not actively pursuing any new

customers. Ms. Colbert asked what kind of discharge is involved with this system and where is it discharged to? Mr. Mills there is only about 4000 gallons per day, so it is very small and it is discharged into the Haw River.



- Mr. Mills said the other system we have is for the Chatham County campus and is located off of Hwy 64 on Renaissance Drive next to the detention center. The detention center was built in 2013 and with it they build 4.5 miles of force main and this serves only Chatham County facilities. Currently it serves the detention center, animal control, solid waste department, the school bus garage, the utilities garage, and the school administrative building. We recently built the emergency operation center (EOC) building and at the time, Pittsboro did not have capacity so we could not tie into our system and we had to build a septic system for that building. There is 300 undeveloped acres located on this campus site and the plan is to move more of Chatham County services to this location and we have a lot of room for future development.

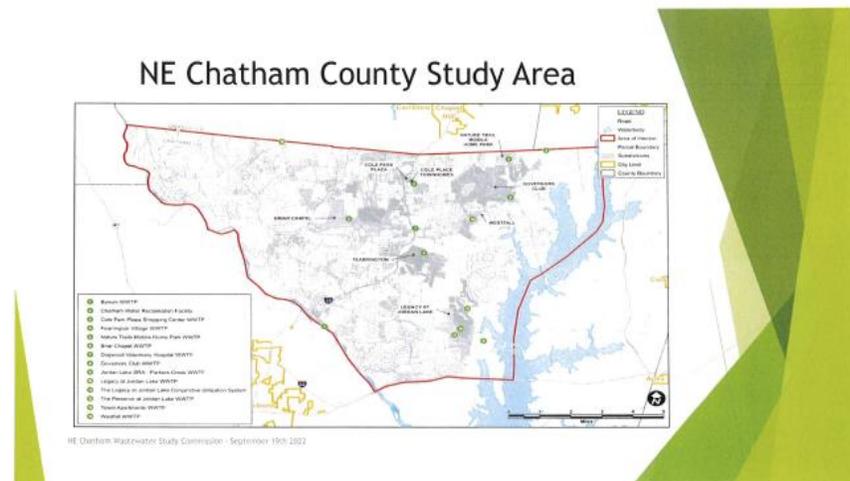
Is Chatham County in the Sewer Business?



- No
- Sewer is by Individual septic field, WWTP Non-discharge and WWTP Discharge Permits.
- Towns and private companies are responsible for building and operating WWTP's.
- WWTP's require high density to be cost effective.

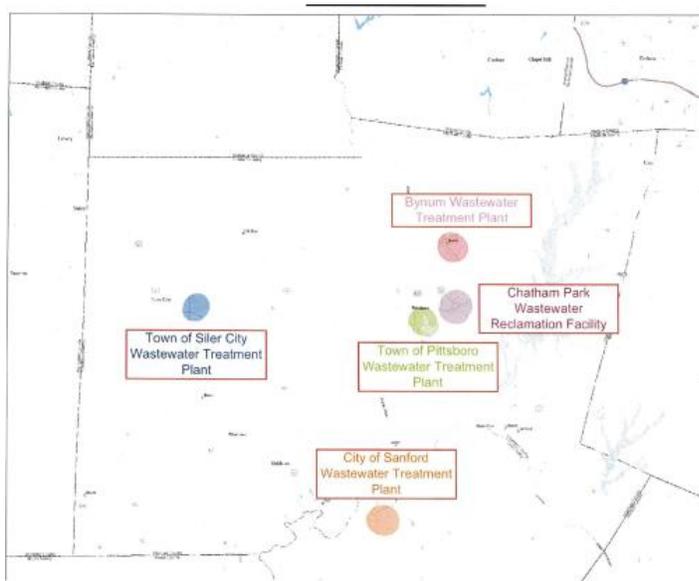
- Mr. Mills said, is Chatham County in the sewer business, the short answer is no. We inherited a very small system in Bynum and we also have our own private system for the county buildings and we are not pursuing other customers. Sewer is handled in Chatham County typically by individual septic systems or it is handled by treatment plants. There are two types of treatment plants, a non-discharge package treatment plants where they use spray irrigation or the conventional treatment plant where it is discharged into a stream or a river. These types of treatment plants are very costly to build so the towns or private companies own, operate, and maintain them. The reason why these companies are involved and not the county is mostly due to density. The county in itself

does not have high density, so we have rural water systems and large lots for residential. When there is higher density, that is where the towns come in because they have ordinances that allow higher density like 4 to 8 homes per acre. The systems which are using the spray irrigation system needs to have a lot of open vacant land for that use.



- Mr. Mills said this is a portion of Chatham County that is located north of Hwy 64 and east of the Haw River. This is where all of the private treatment plants are located. This map is showing fourteen of those plants and one of those is our Bynum plant. Five of these plants are discharge plants and nine of them are non-discharge plants. They have a total capacity of 1.7 million gallons per day. They have more capacity available than the daily demand so there is room for more development. Mr. Mills said the companies that are involved in this area are Aqua, Farrington Village, and Briar Chapel which uses Old North State. Aqua by far is the biggest in this area and they operate seven wastewater treatment plants.
- Chair Spoon asked if someone goes through this process and they establish a private spray irrigation system, at that point can they sell extra capacity to other private individuals without any involvement from Chatham County and only deal with NCDEQ at that point? Mr. Mills said they are the owner and operator and receive permits from the state, so they can increase their service area to other potential property owners. Chair Spoon said when we see an application of a subdivision that is using 2% of its allotted capacity for sewer, we know that is basically a sewer company coming in that will eventually sell it. Mr. Sullivan stated from a zoning standpoint we have been having discussions with the county attorney and there is a bit of a gray area. In the zoning ordinance we have major and minor utilities and that was added several years ago to address how we treated utility companies. The issues we were dealing with are projects that come in with a wastewater treatment plant as part of the project, we as staff are now asking them if they intend to serve areas outside of the development. If they are, it is required to be rezoned heavy industrial. The issue about permitting from NCDEQ or local permitting once the treatment plant is built and operational the utility providers are regulated by the Utility Commission. The question is, through zoning what legal authority do we have to limit their service area. Right now, we are in the position if we have a project that is proposing a wastewater treatment plant and it is serving just the development, we are looking at it now as an accessory use for the development and not to be used to serve areas outside of the development. It is kind of a legal gray area as to where that would go, most likely court.
- Chair Spoon said he appreciates the approach and the proactivity towards it. Mr. Andrews said in Chatham County and outside of Chatham County when a seasoned developer gets a project approved and there is extra capacity, they will sell the development but maintain the rights on the extra capacity. Mr. Sullivan said a perfect example of that is Briar Chapel. There are several developments that have tied into that system and they are not part of the conditional use like Briar Chapel. Mr. Smith asked what are the certifications necessary to operate these systems, whether the failure rate of these systems, do these systems use anaerobic or aerobic digesters to eliminate some of the odors and back in the 1990's there was an issues with spray fields especially with human waste. Mr. Mills said he is not an expert on the treatment plants as to how they use these systems, a lot of them use aeration and we use that in our own system. We do not like to do too much anaerobic because you can get

methane gas and odor problems with that. Most operators want to eliminate odors so they will use processes that will promote that. We are not getting a lot of complaints about odors from these plants.



- Mr. Mills said this map shows the public wastewater treatment plants in Chatham County. Sanford has a wastewater treatment plant and it is permitted for 12 million gallon per day and they are only averaging about 4.5 million gallons per day. Sanford is also able to expand their existing plant up to 18 million gallons per day, so they could take on even more. Sanford has recently changed the name of their water utility to Tri River Water and their mission is not just Sanford, it is a regional utility. The Pittsboro merger will be official on July 1, 2024 and Tri River Water will completely take over the systems. Pittsboro has a wastewater treatment plant and it is a 750,000 gallons per day plant and Tri River Water is interested in continuing to operate their treatment plant and any thing above the 750,000 gallons per day that the plant cannot accommodate will be pumped to the Tri River Water treatment plant. Mr. Mills said Chatham Park also has their own wastewater treatment plant with a 7.5 million gallons per day capacity and they also contracted with Tri River Water, to operate, maintain, and manage their treatment plant, and that has already started.
- Mr. Andrews said in light of what Pittsboro has with Tri River Water, and what Siler City may have in the future, that will create pipes between Sanford and those municipalities, will those pipes be private pressurized lines? What will this board be seeing in terms of rezoning for the pipes between Sanford and those municipalities? Will there be sewer availability within our county jurisdiction? Mr. Mills said the plan is for Pittsboro, Siler City, and Sanford to develop into this area and sewer and water will be provided by Tri River Water. Mr. Andrews asked if Mr. Mills foresees a time when sewer availability will be outside of Pittsboro and Siler City jurisdiction? Mr. Mills said after the merger takes place the utility will have to determine how long it may take them to get infrastructure in place for development. Commonly the developer pays for all the upgrades necessary to tie into the system. Mr. Smith said as far as he knows, the answer right now is no. Goldston was the other municipality that was going to tie into it and a portion of Bear Creek, but none of the other subdivisions or planned subdivisions will tie in except for a development in Lee County. They are also going to move some of the employees here in Chatham to Lee County to work with the wastewater. Chair Spoon asked if there will be access points within county land or will it be piped straight from the municipalities to Sanford? They are not going to reach out to Chatham County parcels along the way, is that correct? Mr. Mills said there is still a question as to how they can support all of this infrastructure to accommodate everything that is happening to Pittsboro and Siler City, so it is not something that is 100% determined right now exactly how it is going to go. The merger with Siler City is supposed to take place in May of 2024 with an implementation date of July 1, 2025.

- Chair Spoon asked how involved is the county in the process, it is happening on top of us, but it seems like it is just between the towns. Mr. Mills said the county has been involved with these plans. Vice-chair Roodkowsky asked who owns Tri River Water? Mr. Mills said it is a non-profit so really the public owns it, but it is really owned and operated through an enterprise fund with Sanford, however it is separate. Ms. Colbert asked what is the process for obtaining the Rights-of Way from Sanford to these outlying jurisdictions for the utility lines and anything else that is associated with it? Mr. Mills said they will need to acquire encroachment agreements with NCDOT Rights-of-Way and in many cases, they may be on private property so they will have eminent domain capabilities, if necessary, but typically there will be a negotiation and pay for easements. Ms. Colbert asked as an engineer, do you take a guess as to how long that part of the process would take in terms of being able to expand into those areas? Mr. Mills said in terms of the merger with Pittsboro they have already gone through that process, they already have every property required and looking at going into construction on that project, so that is already underway. The intent is to build what is needed right now, not what may be required 20 years from now.
- Chair Spoon asked when they start construction it is not just going to start in Pittsboro and move along as they go, will they hire multiple contractors and construct different portions all at the same time? Mr. Mills said he has not been involved in the contractor portion of this process, so he cannot answer that question. It is a big project so it is likely to have multiple contractors involved to get all that work completed in a short period of time. Mr. Smith said the lines are already being run along Hwy 15-501 south and into Lee County. Mr. Mills said we purchase 500,000 gallons of water from Tri River Water a day and we also have a contract with them for VinFast and the Moncure area. Chatham County agreed with them that they will be the sole provider for VinFast and the Moncure area. We prepared a Small Area Plan which determined in the next 20 years there will be 4.4 million gallons of additional water demand and some related sewer demands associated with that. Just from the VinFast project alone there will be an explosion of activity in that area. Part of that agreement with the City of Sanford is they receive 20% of the taxes for what they determine for services for the VinFast and Moncure area. The reality is, if Sanford were not involved there would be no VinFast or development in Moncure.
- Mr. Mills said Tri River Water is a hired consultant to operate all of these contracts with the municipalities VinFast, and Moncure, and they will determine the service areas and what their service area is going to be. Right now, the goal is to meet the immediate demands, but because they are a utility and they can share resources and provide sewer and water where there is a demand. The plan is to have this completed in March of 2025 and we will know more about the required service areas then. Tri River Water is working on other major projects as well so they are going to be a very large regional wastewater and water utility.
- Mr. Mills opened the floor to questions and discussion. Mr. Mayer asked in terms of limits to growth in Chatham County at full saturation and built out, is water or sewer one of the main limiting factors? Mr. Mills said with the kind of density we are doing in Chatham we can use septic, but if we want higher density, you will need sewer and that becomes much more complex. So, it is a limiting factor, how close are you to available sewer for growth. Mr. Mayer stated do you think water will also be a limiting factor as well? Mr. Mills said yes, because you need to be close to the utilities to develop and then it can be expanded from there.
- Mr. Andrews said we had an issue in the northwestern portion of our county and there is a large gap in service because they decided not to tie in. Silk Hope school is served, but the remaining portion of Silk Hope is not provided any municipal water and it does not sound like what is going on with Sanford will include Silk Hope and might have been a lost opportunity. Mr. Andrews asked if there was a plan for the county to have utilities in Silk Hope anytime soon. Mr. Mills stated there is not and typically development extends the water mains so it is possible that we will see water brought to the area around Silk Hope.
- Mr. Smith said a few years back the county ran water lines through a portion of Moncure and most of the residents did not connect to the water line. Most of the lines are developed and designed for new subdivisions and developments. As far as sewer, it would be welcomed in most rural communities, but it comes to the expense of running the lines and connecting to them. Mr. Smith said most of his neighbors are still drinking well water and there has been some issues with the municipal water and they feel safer continuing to use their wells.
- Chair Spoon asked if Mr. Mills has worked or seen a jurisdiction that has water distribution stations where trucks deliver to agricultural operations from a water outlet at the end of a line? Mr. Mills said no, he has not seen that. Chair Spoon asked with the negotiations that we are involved in are we guaranteed allotments with these contracts with Sanford or is Tri River Water going to make our decisions for Pittsboro and Siler City? Mr. Mills said

Tri River Water is the utility provider and if it involves their service area as far as extending lines, it will depend on their budget to service that area. Mr. Smith said the legislature put us in a position where we are having to do regional hookups, so there is not a lot of input from the county.

- Vice-Chair Roodkowsky said what she is understanding is in the short- and medium-term developers are going to be needing to create their own water treatment systems as we have been seeing. In the longer term it might be possible to tie into the Tri River Water system, is that correct? Mr. Mills said Tri River Water is providing sewer for Siler City and Pittsboro, and anything along the transition lines, so they will have options and can pick up other service areas when they bring those lines in. It will come down to their master plan and when they study it to where it makes sense to do that. Vice-Chair Roodkowsky said if this were not happening already the way it is, what would be your preferred vision for Chatham County in the year 2050 that would ensure the environmental wellbeing? Mr. Mills said we have water supply taken care of now and achieve all of our water needs. As far as wastewater we are really looking at septic because we want to maintain our rural character and that is really our plan for services in Chatham County. What we want to see is the high-density development only in the municipalities, and the wastewater would be treated by the cities, not the county because that is not our role. Now that they have Tri River Water, they will be able to expand, they could not grow before because they did not have the capacity. Before when they did not have that capabilities, that is why we have developments like Briar Chapel and Governors Club outside of the municipalities. Now with the capacity they can support developments like them and they will expand out and Chatham County will not have that responsibility. In a perfect world, all the development will stay within the municipalities and the rural areas will stay rural and operate on septic systems. What we are planning on seeing with the new capacity most of the home developments will be located within the municipalities and Moncure area.
- Ms. Colbert said we shift the high-density development to Siler City and Chatham Park, it is clear that Tri River Water is not trying to cross the Haw River and provide sewer to northeast portions of Chatham, is that correct? Mr. Mills said it might be part of their master plan to look at that area and see if there is a need to provide services. A lot of this is driven by developers because if they reach out to Tri River Water, they will look at it and determine if it is beneficial. Ms. Colbert said then it is possible for them to cross Haw River and provide sewer to the northeast? Mr. Mills said it is possible. Ms. Colbert said there was an advisory committee or ad hoc committee that was formed to make recommendations or raise issues and concerns for wastewater treatment in the northeast, and asked if Mr. Mills was familiar with the issues and concerns that were raised by that group that might tie into what is going on Sanford and the southern part of the county? Mr. Mills stated he is familiar that study and they were looking at those thirteen private treatment plants and how can they be reclassified and brought into one system that could get away from the discharge and spray irrigation, but rather discharge to a utility provider and they are looking at Durham County. Durham County is located quite a distance away, we have money in the budget to conduct a study to see if this idea is even feasible and cost effective to do that. However, with Tri River Water when they do this study, they are going to look at the service areas for sewer and water throughout the whole county. If Tri River Water does consider in their master plan that area, it would be a much better option than Durham County.
- Mr. Mayer asked if the city's Planning department have the authority to direct the allotments where they want growth and development to happen? Mr. Sullivan said yes, all municipalities have a future comprehensive plan and should be one of the guiding documents for the future developments and growth.
- Mr. Smith said Chatham County has had many nicknames over the years and one of the names was the outhouse capital of the United States. That is because municipalities get utility services, rural areas do not and most of Chatham County is rural.
- Ms. Colbert said we have some jurisdictional and technical issues that are being negotiated now, but for the county's part we have attached some zoning restrictions or regulations when these projects come through, at what point will we be cooperating and using this future utility in some fashion, what will we need be doing in terms of the zoning requirements and the enforceability for some of these provision? For example, Briar Chapel has its own wastewater treatment plant and part of the condition use for that is to have the community provide open space to be used to support the spray fields and there have been several instances because of the extra capacity and use, some of the conditions that were associated with the approvals for the use of open space are not compatible with some of the spraying that is being done. We have the county saying this is what the plan is supposed to look like and then there is a separate authority with NCDEQ in terms of what regulations apply to the

treatment plant, how do we work those two entities together so what we intended to approve is really what is being done. Mr. Sullivan said the compact communities in Briar Chapel was an innovative document, but now that we have had fifteen plus years of using it and regulations have changed at the local level, when this was being developed, we did not have a stormwater program. Things like that have changed dramatically and when we are looking at the Unified Development Ordinance (UDO), we need to have better definitions of open space and how it should be selected and for what it can be used. We started seeing some of that with the conservation subdivision with open space and natural space, it is clear natural space is not to be used for development, but maybe some basic trails. However, open space allows for more uses like recreational, so we are making sure those definitions are very clear in the UDO so it is known up front.

- The Planning Board thanked Mr. Mills for his time and presentation.

IX. NEW BUSINESS:

X. BOARD MEMBERS ITEMS:

1. Update from the Planning Board liaisons.

- Chair Spoon said he will be the representative for the Agriculture advisory committee which is a quarterly meeting.
- Ms. Robertson said she watched the Pittsboro meeting recording on March 18th which was mostly just informative. They had training for their current board members and they had a presentation on how they conduct their business. They also discussed their process in creating a scenic overlay district, to improve and protect the natural and build esthetic value and character in Pittsboro and Hwy 64 business. They also discussed providing a sense of arrival when you enter a new space and creating more transportation options.
- Ms. Colbert said Siler City has been problematic because they do not post an agenda online.
- Chair Spoon said they had a UDO subcommittee meeting and reviewed three chapters, Chapter 14 Nonconformities, Chapter 15 Enforcement, and Chapter 16 Rules Of Interpretation & Measurement. The next regular meeting will be in April. They are working on having the UDO completed and adopted by the end of the year.

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

The Board discussed and agreed the May meeting will be held in person at the Old Agriculture building.

XI. PLANNING DIRECTOR'S REPORTS:

Mr. Sullivan reported on the following:

1. Minor Subdivisions / Exempt Maps - See Attachments.
2. Unified Development Ordinance Update.
 - The consultants are continuing to work on the chapters and draft. The watershed chapter is a difficult chapter to work through. Mr. Sullivan said they are working on the Special Use Permit issues and will most likely only have conditional use rezoning and do away with S.U.P. This will remove the quasi-judicial process.
3. April Public Hearing Items.
 - Whistling Woods Rezoning

4. Mr. Glenn to discuss upcoming Planning Board Training Series.

Mr. Glenn gave a brief overview of the training he has been working on for the Planning Board members. Ms. Robertson said what she liked that Pittsboro did was a flow chart of how the process works between Planning staff and the Planning Board. Chair Spoon thanked Mr. Glenn and looks forward to incorporating the training as much as possible on the agendas and is the plan to have this training as onboarding for new members? Mr. Glenn said yes, that is the goal in the long term. Chair Spoon said he would like to learn from the staff's perspective as to what makes a good Planning Board member and what skills you would like to see us as members bring to the table.

- Mr. Sullivan followed up with what members who wants to attend the School of Government training.

- Ms. Colbert asked Mr. Sullivan if he knows how many more pre-2008 regulation subdivisions are still out there that could come through. Mr. Sullivan said we though most of them were completed but we still have The Parks at Meadowview and Farrington Village. Ms. Colbert asked where Williams Corner fits in all this and will we see it? Mr. Sullivan does not believe it will ever come through.

XII. ADJOURNMENT:

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

Signed: _____ / _____
Jon Spoon, Chair Date

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