



Chatham County Planning Board Minutes June 4, 2024

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

Present

Jon Spoon, Chair
Tony Mayer
Amanda Roberson
Nelson Smith
Jamie Andrews

Mary Roodkowsky, Vice-Chair
Shelley Colbert
Eric Andrews
Clyde Frazier

Absent

Elizabeth Haddix
Norma Hernandez

Planning Department

Jason Sullivan, Director, Angela Plummer, Zoning Administrator, Kimberly Tyson, Subdivision Administrator, and Daniel Garrett, Clerk to the Planning Board.

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, 9 members were present. Ms. Hernandez and Ms. Haddix were absent. Mr. Mayer arrived during the approval of the May meeting minutes.

III. APPROVAL OF AGENDA:

Approval of the Agenda – Motion made by Ms. Robertson to approve the agenda, seconded by Vice-Chair Roodkowsky. The agenda was approved, 8-0, unanimously.

IV. APPROVAL OF THE MINUTES:

Consideration of the May 2, 2024 meeting minutes. Motion by Ms. Robertson to approve the May 2nd minutes and seconded by Vice-Chair Roodkowsky, the minutes were approved 9-0, unanimously.

V. PUBLIC INPUT SESSION:

There was not anyone who signed up to speak.

VI. SUBDIVISION ITEM:

1. Request by Sam Nye, P.E. for subdivision First Plat review of Ridgewood Hills, consisting of 25 lots on 130.306 acres, located off Hatley Road, parcel 17357.

Ms. Tyson stated the request is for First Plat review and recommendation of Ridgewood Hills, consisting of 25 lots on 130.306 acres, located off Hatley Road, S.R. 1714. Per the Subdivision Regulations, Section 5.2C(4), a Public Hearing shall be held at the first Planning Board meeting to receive comments on the proposed subdivision. Item (b) states that following the Public Hearing, the Planning Board shall review the proposal, staff recommendation, and public comments and indicate their recommendation for approval, disapproval, or approval subject to modifications. As stated above, the Planning Board has two (2) meetings to act on the proposal.

Parcel 17357 was previously zoned Conditional Use-RA90 with a conditional use permit for a major subdivision and the Board of Commissioners approved rezoning the property to R-5 on October 16, 2023. Prior to the CU-RA90 zoning, the property was zoned R5. The road is to be built as a 20-foot-wide travel way with a 60-foot-wide private right-of-way.

The applicant received comments at Concept Plan TRC Meeting. The Chatham County Historical Association recommended the developer look at the history of the property for potential naming opportunities. The site was the location of Hamm Windham House. There are numerous water features, and the likelihood of Native American habitation is increased. CCHA requested photos and measurements of the buildings on the property.

Notification of the proposed development was provided to the Chatham County School System. Chris Blice, Chatham County Schools Assistant Superintendent for Operations was contacted by email dated May 6, 2024.

The developer submitted the General Environmental Documentation and a letter dated October 23, 2023, from North Carolina Department of Natural and Cultural Resources Natural Heritage Program to Chatham County Land & Water Resources Division for review. The letter states "A query of the NCNHP database, indicates that there are records for rare species, important natural communities, natural areas, and/or conservation/managed areas within the proposed project boundary. Rare species and natural communities that have been documented within a one-mile radius of the property boundary. The proximity of these records suggests that these natural heritage elements may potentially be present in the project area if suitable habitat exists." Taylor Burton, Senior Watershed Specialist, reviewed the information submitted. Ms. Burton replied in a letter dated April 3, 2024, that the requirement has been met. Additional comments included any Allowable uses and Allowable with Mitigation uses in the protected riparian buffer will require a Buffer Authorization from Chatham County, all permits with wetland and stream impacts from NC Division of Water Resources and the US Army Corps of Engineers will need to be obtained prior to receiving approval from Chatham County for a Grading Permit and Land Disturbing Permit.

A community meeting was held on September 28, 2023, at Chatham County Community Library in the Holmes Family Meeting Room, 197 NC Hwy 87N, Pittsboro. Approximately eighteen people attended the meeting. Items/issues discussed included the following:

- Will there be street lighting? Response: Enough lighting to provide walkability throughout the subdivision at night.
- How will the development affect the surrounding roads and who will maintain the roads during and after construction? Response: The builder will be responsible for maintaining the roads.
- Currently there are no turnarounds for waste collectors on Boxwood Drive. How will the proposed gate impact that? Response: A turnaround will be provided just before the gate.
- There have been well and water pressure issues. Response: Working with the County on the waterline requirement.
- Will the new waterline run all the way down Hatley Road to the development? Response: Yes

The TRC met May 15, 2024, to review the First Plat submittal. Mr. Sam Nye, P.E. with The Site Group, was present. Discussion included if there will be street lighting and subdivision signage, wells will need to be abandoned, water features on the plat needs to be labeled, septic fields needs to be located outside of the riparian buffers, concerns property owners will disturb the riparian buffers, keep a lookout for graves and artifacts, and Hamm Windham house was torn down in 2012 but some out buildings still exist and CCHA would like some photos and measurements.

A soils report and map was submitted to James Tiger, Chatham County Environmental Health Supervisor II, for review. Mr. Tiger stated, "The proposed subdivision appears adequate based on the limited information provided.

1. Stormwater control measures may impact useability of soils areas - work with your soil scientist to verify required setbacks.
2. Several sites show surface drip soils - permitting through NCDEQ will be required.
3. Several sites show subsurface drip soils - designs by an engineer will be required.
4. Sites with less than 15,000 sqft. of low-profile/conventional soils may require additional work by a consultant or alternative systems to permit depending on topography, soil depth, soil group, final house dimensions and location, number of bedrooms, driveway locations, site grading plans, the need for interceptor drains, etc.

County water will serve the subdivision. The road names Ridgewood Hills Drive, Windham Court, Hamm Court, Stony Meadow, and Spring Branch Court has been approved by Chatham County Emergency Operations Office as acceptable for submittal to the Board of Commissioners for approval.

Hart & Hickman personnel completed a site visit in September 2023 and identified fifty-eight (58) surface waters within the review area that were potentially subject to riparian buffer. Matt Hugo with Hart and Hartman, PC completed the on-site riparian buffer visit with Drew Blake, Asst. Director Watershed Protection Dept. on February 5, 2024 to verify the consultant's findings. A confirmation letter dated February 14, 2024 stated one (1) ephemeral stream, ten (10) intermittent streams, six (6) perennial streams, twenty-two (22) potential wetlands. A 30-ft buffer from top of bank landward on both sides of the feature for all ephemeral streams, a 50-ft buffer will be required beginning at the flagged boundary and proceeding landward on all wetlands, a 50-ft buffer from top of bank landward on both sides of the feature for all intermittent streams, and a 100-ft buffer from top of bank landward on both sides of the feature for all perennial streams. On-site determination expires five years from the date of the riparian buffer report. The Jurisdictional Determination has been submitted to the Army Corp of Engineers.

There are two (2) proposed stormwater devices and as part of the stormwater permitting process additional information will be provided to the Watershed Protection Department during the permitting process. A Stormwater Permit and Sedimentation & Erosion Control Permit will be obtained from the Chatham County Watershed Protection Department prior to Construction Plan submittal. No land disturbing activity can commence on the property prior to obtaining Construction Plan approval.

Site visits were scheduled for May 23, 2024, for Planning Department staff and various board members to attend. Kevin O'Neal and John Stroud were present to walk the property with staff and Board members and discuss the project. Pictures of the site visit can be viewed on the Planning Department webpage at www.chathamnc.org/planning, Rezoning and Subdivision Cases, 2024.

Plan Chatham was adopted by the Board of Commissioners in November 2017 and is a comprehensive plan that provides strategic direction to address the most pressing needs in the county. This project is located in a rural area of the county on the Future Land Use and Conservation Plan Map. The description for rural is low density development comprised of single-family homes on large lots or in conservation subdivisions with some commercial buildings designed to protect function and form of rural character. Pastures, farms, and forests dominate the landscape. Mix use includes agriculture, large lot residential, supporting service uses, and home-based and small-scale businesses. The proposed conventional subdivision meets the adopted riparian buffer and stormwater control standards of the county, and the subdivision is proposing a 30' wide greenway trail. The developer also contacted the NC Natural Heritage Program to review their database for any rare species, important natural communities, natural areas, or conservation/managed areas within the project boundary and rare species were identified in their records. It should be noted that Plan Chatham is not intended to

be used as a regulatory tool but is a policy document. When reviewing subdivision applications, the boards can use the plan as a tool to identify future regulatory changes.

Ms. Tyson said the Planning Department recommends granting approval of the road names Ridgewood Hills Drive, Windham Court, Hamm Court, Stony Meadow, and Spring Branch Court granting approval of the First Plat for **Ridgewood Hills** with the following conditions:

1. Approval of the First Plat shall be valid for a period of twenty-four (24) months following the date of approval by the Board of Commissioners and the Construction Plan approval shall be valid for a period of twenty-four (24) months from the date of approval by the Technical Review Committee or Board of Commissioners
 2. The county attorney shall review and approve the contract and performance guarantee prior to final plat recordation.
 3. The final plat shall provide the overall lot size average.
 4. The final plat shall include the road names.
 5. A copy of the road maintenance policy shall be provided to planning staff prior to recordation of the final plat.
- Chair Spoon said the format used in the community meeting report with the comments and responses was helpful.
 - Mr. Sam Nye a civil engineer and representative of the project gave a brief presentation and said this parcel was recently rezoned back to R-5 and will require an average lot size of 5 acres. This subdivision is on 130.3 acres with 25 buildable lots and 2 lots reserved for stormwater treatment ponds. This subdivision will be gated with private roads and maintenance. County water will be provided and individual septic systems. The average lot size is 5.09 acres with the smallest lot at 3.14 acres and the largest lot is 9.34 acres. This parcel has a lot of water features and we carefully designed this project to have the least amount of impacts as possible. Mr. Nye showed the Planning Board members a map of all the suitable soils for each buildable lot. They are proposing a turnaround near the private gates at both entrance locations and an island with an access kiosk. Mr. Nye thanked the Planning Board for their consideration for approval.

Public Input:

- Ms. Gigi Davidson of 1043 Hatley Road said my husband Michael and I live on the 68 acres immediately east of Ridgewood Hills. Maintaining the integrity of Parker's Creek, which runs through Ridgewood Hills and our property, is my primary concern. Plat maps of properties along the creek show that this is the last developable stretch of Parker's Creek between its headwaters and its mouth. My plea is that Parker's Creek and all its tributaries (such as the Brassington Springs Branch) each be protected with a 100-foot riparian buffer between that feature and any Ridgewood Hills development. Parker's Creek is a critical tributary to the Jordan Lake Reservoir. 10 counties, 27 municipalities, and 700,000 people depend on Jordan Lake for drinking water. Not only is Parker's Creek critical to Jordan Lake, but it is also an environmentally sensitive and increasingly rare ecosystem. Our property was recently surveyed by the North Carolina Natural Heritage Program. In that survey it was noted that our property and the 1-mile surrounding area have current evidence and historical records of rare species (such as the significantly rare Carolina Ladle Crayfish), important natural communities (such as Dry Oak and hardpan communities), state designated natural areas (such as the Big Woods Forests and Parkers Creek Ridges), and conservation and managed areas (such as all of the educational, recreational, and preserve areas associated with Jordan Lake). I have submitted the preliminary findings of this survey and the recommendations of the NC Natural Heritage Program to Members of the Planning Board.

Ms. Davidson said we have been on this property for 31 years, during which we have watched Parker's Creek change dramatically. Once a steady flow of water whose levels rose and fell gently, Parkers Creek

now suffers from major erosion and upstream runoff, causing severe flooding that washes out our driveway, which is the only way out of our property. Trees of 1-2 feet in diameter have been washed out of the banks into the creek and jam up our culvert, causing Parker's Creek to rise to depths of 5-6 feet upstream of the jam, flooding the rest of our property. We have spent tens of thousands of dollars managing the damage to Parker's Creek caused by upstream development. We have also watched the disappearance of many animal and plant species along our section of Parker's Creek. There was once a thriving colony of beavers in the middle of the proposed development. There were once river otters, a bobcat, grey fox, and salamanders. The crayfish were plentiful. There were flame azaleas, and lady slippers and trout lilies along our north facing bank. All these species have now been mostly extirpated and replaced by Japanese Stilt grass that has washed down from upstream. I do not speak tonight to try to stop the development. I only ask that the Planning Board ensure the protection of Parker's Creek. I urge you to work closely with the NC Natural Heritage Program and the US Fish and Wildlife Service to develop and maintain a 100-foot protective riparian buffer along the entirety of Parker's Creek and its tributaries. I and future generations thank you for this consideration.

- Mr. Charles Balan of 196 Creekstone Drive said he is adjacent to this development and a lot of what Ms. Davidson said is true especially about the rare species and we have a huge turkey population that we have worked very hard to protect. My concern is the amount of septic being used because all of us are on wells and it would be coming down onto our properties and we are concerned about the pollution to the well water. This is a beautiful natural area and that is why we moved to Chatham County, we have lived here for 18 years and we love it. We are not against the rezoning, we are glad it was reverted back to the R-5 district, but we just want to developers to be aware that there are neighbors, these are not empty plats next to it, there are existing homes. Mr. Balan thanked the Planning Board.

Board Discussion:

- Ms. Colbert asked Mr. Nye, who is the legal owner of the property? Mr. Nye said the owner is Rutherglen Holdings, LLC. Mr. Colbert said that name is not on the title. Mr. Nye said this group owns both limited liability companies. Ms. Colbert said she just wanted to make a note that the property was transferred to an entity ITAC 525, LLC, which was completed on December 19, 2023 and there have been no subsequent transfers. Mr. Nye said the property owner owns both of these LLC's, ITAC 525, LLC and Rutherglen Holdings, LLC. Mr. Nye said this should not be an issue for the Planning Board to review. Chair Spoon asked Mr. Sullivan if this is part of the Planning Board deliberation or is it handled by the Register of Deeds? Mr. Sullivan said there is not a requirement in the subdivision regulations that the property owner has to sign the application. In a rezoning case, the owner will need to sign the application or an authorized agent can sign on their behalf. State statutes does not require the owner to sign the subdivision application. It appears the owner of the property has two different LLC's and still has ownership of the property. Mr. Nye said that is correct and he will check on this and update staff.
- Mr. Frazier said there was a question raised in the community meeting about who will maintain the private roads during and after construction, and the response was the builder will be responsible for maintaining the roads. Is that correct and for how long? Mr. Nye said the developer will be responsible for the road maintenance during construction and when the subdivision establishes an HOA, then the road maintenance will be transferred to the HOA.
- Jamie Andrews asked about riparian buffers and how the 30', 50', and 100' buffers are determined. Mr. Nye said these are county regulations and they require a 100' buffer from top of bank out for a perennial stream, a 50' buffer on intermittent streams, and a 30' buffer on ephemeral streams, which is above and beyond to what is seen across the state. Wetlands also require a 50' buffer. The watershed Protection department will conduct a riparian buffer review and determine what buffers are required on each water

feature. Chair Spoon said the request Ms. Davidson has for a 100' buffer for all the tributaries for Parkers Creek seems to be reasonable, lot 19 is the only place with a 50' buffer, but it is also one of the larger suitable soils for septic. Would the developer be willing to increase that buffer from 50' to 100', because it does not look like it will impact the septic capacity for the lot. Mr. Nye said you are correct, this is one of the more generous lots for suitable soils and a 100' buffer should work. Chair Spoon said he would like to make that 100' buffer on lot 19 a condition. With that increased buffer, everything to Parkers Creek is protected 100' or more. Jamie Andrews said in lots 12 and 13 it might also be useful because there is a wetland with a 50' buffer. Jamie Andrews asked what regulations are in place to make sure builders and future homeowners do not disturb or build within the buffers? Mr. Nye said if there is any buffer impacts during the building process a permit is required through the county. When a homeowner purchases the home it is explained and shown on the deed where the buffers are located and cannot be disturbed. Mr. Nye said we designed this project in such a way to avoid as many stream crossings and buffer impacts as possible, in fact, we only have two driveways that will require a buffer impact permit.

- Mr. Frazier asked if we as a Planning Board have legal authority to require the developer to increase the buffer from 50' to 100'? It is nice they are will to increase it though. Chair Spoon said we can request it and if the developer agrees to it, it can be a condition. Mr. Sullivan stated this would be considered a voluntary buffer and if the applicant agrees to it, that is okay, but they have to be shown on the plat as voluntary buffers because the county does not have any regulatory authority over them. The enforcement of the voluntary buffer would fall to the HOA if there was a violation. Chair Spoon said to the applicant, this board is trusting your word and it seems like an easy accommodation to make especially on lot 19, and maybe lots 12 and 13.
- Ms. Robertson thanked the residents who came and spoke tonight regarding their concerns for the water features on this property. Mr. Robertson said she went on the site visit and walked this property and the consultants did a great job informing all of us on the visit that their goal is to retain as much tree coverage as possible. The road that is proposed will be placed on an existing pathway. This is a beautiful piece of property and understand why adjacent property owners are asking and concerned about it, but this plan is most likely the best we can ask for. Ms. Robertson asked how does a house fit on lots 6 and 9 and then connect to the septic fields? Mr. Nye explained there are a couple procedures to cross the water feature with a 1-1/2" pipe to the septic field such as boring under the water feature. This requires a permit from the US Army Corps and thankfully in this whole project there is only 2 crossings that will be needed. Mr. Sullivan said there is also a local permit required and Watershed Protection look at these closely because it is located in the Jordan Buffer Rules.
- Chair Spoon asked about the proposed turnrounds for the gated entrances and how will they be accommodated, because they are not shown on the plat. Mr. Nye said we will try to avoid using any properties if we can and the turnarounds have not been shown on the plat because there are variations of the design of the turnaround. Mr. Nye showed on the screen how the turnarounds and the individual lot driveways would not have any interference with each other. Mr. Nye said lots 13 and 14 could help accommodate the larger bulb for emergency vehicles. Jamie Andrews said lot 14 is already small, will that drop it under the minimum allowed lot size? Mr. Nye explained it would not because these are private roads and that property owner would just own part of the turnaround but maintained by the HOA.
- Chair Spoon said if we move towards approval of this item, he would like to add the condition where the water feature on lot 19 has a 100' voluntary buffer around it and on lots 12 and 13 if it can be accommodated. Mr. Nye consulted with the applicant and said they will agree to the 100' voluntary buffer on lot 19, but on lot 12 and 13 it is not a stream, but a wetland and the way it is located on the property it will be hard to accommodate.

- Ms. Colbert said she would normally support the motion, but she does not believe the application is valid without the legal owner being incorporated into it. The owners have not been properly identified and for that reason she will be voting no for this item.

Motion made by Mr. Mayer to approve this subdivision item with the staff conditions and the 100' voluntary buffer on the water feature on lot 19, seconded by Ms. Robertson. There was a vote and the item was approved 8-1, opposed by Ms. Colbert.

VII. ZONING ITEM:

1. A legislative request by Gunjan and Vikas Laad on Parcel 96061, located off Farrington Point Road, being approximately 19.43 acres, to rezone from R-1 Residential to CD-NB Conditional District Neighborhood Business, for an Event Center Limited, Williams Township.

Ms. Plummer stated a public hearing was held May 20, 2024 and Planning staff presented the request. The applicant's representative, Scott Radway, and the applicants made a presentation. No one signed up to provide comments during the hearing. Commissioners inquired about the need for road improvements that may be required by NCDOT. Mr. Radway stated that they were waiting on NCDOT to advise if a turn lane would be needed, especially since a recently approved boat and RV storage facility is directly across from this site. A deceleration lane has already been approved for the storage facility for traffic heading south on Farrington Point Road. He stated NCDOT is still reviewing the new proposed driveway location in proximity to the storage facility approved driveway location. Commissioners also inquired about the appropriate amount of screening to be installed along the front property line to hide the front yard parking lot area in order to maintain a sense of scenic greenway views that currently exist along this area of roadway. Mr. Radway explained the landscaping plan with three levels of plantings as directed by the Appearance Commission. He also stated that the proposed site layout is a result of the current landscape and topography of the property. The proposed layout is the best option for preserving more open space, protecting surface waters, and limiting built upon area.

The parcel was previously part of the Ray Parker family farm. The property was subdivided into several parcels, one of which has already been rezoned to conditional district neighborhood business (19522) for an enclosed boat & RV storage facility located across Farrington Point Road from this request. The adjacent parcel to north of the storage facility is a solar farm that was approved several years ago.

The parcel is currently zoned R-1 Residential and located within the Rural node of the Land Use Plan and less than ½ mile from a compact residential node. When determining whether a rezoning request should be approved under Section 5 Conditional Zoning Districts, the following findings must be supported.

1. **The alleged error in the Ordinance, if any, that 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 errors are being claimed.
2. **The changed or changing conditions, if any, of the area or in the County generally, which make the proposed amendment reasonably necessary to the promotion of public health, safety, and general welfare.** The applicant contends that due to continued residential growth in the county, the need for services and non-residential uses also continue to grow. Uses such as event centers and small-scale non-residential uses are encouraged in close proximity to compact residential areas. Jordan Lake also brings tourists to the area and this type of use could benefit that as well. The use of the event center would mostly be utilized on weekends with the occasional use during daytime or early evening, especially in Spring, Summer, and Fall.

Event Centers Limited help in maintaining the rural character of the area in which they are located. The building can be no larger than 5,000 square feet, which limits parking and built upon area. This proposal has the building set back

more than three times the minimum for the neighborhood business district. The majority of the existing tree canopy will remain with additional plantings in various areas as recommended by the CCAC. That meeting was held November 15, 2023.

3. **The manner in which the proposed amendment will carry out the intent and purpose of any adopted plans or part thereof.** Chapter 2-Issues and Opportunities- of Plan Chatham addresses opportunities and balancing economic growth to serve the growing population. The proposed event center will provide services in demand in Chatham and Orange Counties and keep the tax dollars in Chatham. Due to being a small area of development, environmental protection of surface waters and the re-use of previously cleared farmland supports the land use plan.

Chapter 3-Goals & Objectives- This proposal supports Goal 4, Diversity of the tax base, providing employment opportunities, and reduces the dependency on residential tax base. Goal 5 is supported by not utilizing curb & gutter so the project can have less than 10% impervious surface area.

4. **The requested amendment is either essential or desirable for the public convenience or welfare.** A community meeting was held January 25, 2024. Discussion/concerns involved noise, lighting, landscaping, and the stormwater measures. The proposed use is expected to generate approximately 250 trips per event. Per NCDOT, the threshold for requiring a TIA would be an increase in 3,000 trips per day.
5. **All other circumstances, factors, and reason which the applicant offers in support of the proposed amendment.** County water is available across the road for service to the site and wastewater will be an on-site septic system. The site plan shows protection areas for the existing forested land that abuts Cub Creek and the US Army Corp of Engineers protected lands.

Ms. Plummer said the Planning Board has up to three meetings in which to make a recommendation for approval or denial to the Board of Commissioners. If recommended for approval, a consistency statement has been provided for consideration.

- The project supports the land use plan by utilizing minimal area in order to preserve previously utilized farmland, protection of surface waters, and providing a small-scale, rural type business for the surrounding area.

The following conditions and standards shall apply upon approval:

Site Specific Conditions

1. The recommendations from the Chatham County Appearance Commission (CCAC) shall be followed as stated in the minutes and as shown on the site plan. The planning staff and CCAC may conduct routine inspections of the property to ensure compliance with the landscaping requirements.
2. A building permit shall be applied for and approved for construction within two years from the date of this approval or the use becomes null and void. Should an extension be needed, a timely revision to this approval must be filed with the Planning Department and go through the revision process.
3. Events that provide music, whether live, DJ or otherwise, shall provide notice to the adjacent residential properties prior to the event and comply the Chatham County Noise Ordinance.
4. Events shall not go past 12 midnight and all non-security lighting shall be turned off.

Standard Site Conditions

5. 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.
6. All required local, state, or federal permits (i.e., NCDOT commercial driveway permits, NCDWQ, Chatham County Land and Water Resources, and Environmental Health Division, etc.) shall be obtained, if required, and copies

submitted to the Planning Department as part of the platting process.

Standard Administrative Conditions:

7. 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.
 8. Continued Validity – The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditions listed above.
 9. Non-Severability – If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
 10. 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.
- Mr. Scott Radway the applicant’s representative gave a presentation to the Planning Board and stated we are requesting a conditional district neighborhood business rezoning for a limited event center with a proposed 5,000 sf building. Mr. Radway showed the board members the location of the parcel on the Future Land Use map and said it is .75 miles north of the crossroads community at the intersection of Farrington Road and Lystra Road. Mr. Radway went over the findings summary and confirmed they have all been met. Mr. Radway said the parcel is 19.4 acres with farm fields, a forest, two small ponds, and will be served with public water, and have a septic system capable for 725 people per week. Mr. Radway showed the board the project layout with the building, parking lot, wedding garden, wildflowers, and all of the proposed landscaping around the parcel. The overall impervious surface is just under 9% and the parking lot will have 110 spaces to include 6 disabled parking spaces. The maximum number of events per week will be four and the maximum number of people per week is 725. Mr. Radway said the driveway is located on a ridge and we planned it that way so all water runoff will be directed towards the stormwater treatment and not towards Cub Creek which is further back in the forest. Mr. Radway also showed the proposed preliminary design of the event center building. Ms. Plummer and Mr. Radway have both been in contact with NCDOT and are reviewing this project right now to include the boat and RV storage facility across the street, NCDOT may want the driveways lined up, which would not be an issue for us. Mr. Radway said in closing that they agree with all of the recommendations from the Planning staff and the conditions regarding notification to the neighbors for noise and light pollution concerns.

Board Discussion

- Mr. Mayer said in general he likes this plan; it is compacted and thoughtful. Is there any plans for the large area on the back portion of this parcel? Mr. Radway said no because there is a stream that crosses the property and it would require a permit to impact it and that is not in the plans at this time. Mr. Radway said the neighbors did want to know if they would still be allowed to access the pathways they have been using on this property to access Cub Creek and we agreed to allow them to continue to have the access they have had for the last 20 to 25 years. Mr. Mayer said this property seems like a nice nature location where people would want to bird watch or walk their dogs, it is generous of the property owners to allow that continued use.
- Chair Spoon said he is pleased to see only 9% of impervious surface coverage and assumes the parking lot will be paved with asphalt. Is there any consideration in using pervious surface parking? Mr.

Radway displayed the parking lot slide to the board and showed the board all of the 30' wide islands in the parking lot, and said the typical island is 10' wide. The parking lot will be paved and sidewalks will be provided because we do not want our clients walking in drive isles where it is dangerous or in the water.

- Ms. Robertson said she was glad to see the abundance of plants and thanked them for a well laid out plan. We have a lot of invasive species in this area, how emphatic are you with planting native plants. Mr. Radway said nothing will be invasive and we will also be removing any invasive species around the property and the edges of the woods. The landscape designer will follow the suggested plant list from the Appearance Commission.
- Mr. Frazier said he lives in that part of the county and it would be nice to see the wildflowers, but with the buffer they cannot be seen. Is the Appearance Commission willing to let you not place a buffer in front of the wildflowers? Mr. Radway said we might be able to find a way to alter the planting in that area in a way so the wildflowers can be seen, or we could possibly design a new plan and go before the BOC.
- Vice-Chair Roodkowsky said this is a great design that has been presented, but there is still some concern about traffic. When we were reviewing the boat and RV storage facility, one of the points they were making is that the traffic would be on weekends and summer evenings. In this application it is basically the same time period, weekends, and summer evenings. The deceleration lane has been approved for the boat and RV storage, but this is a narrow two-lane road, and more discussions with the traffic representatives might be advisable. Vice-Chair Roodkowsky said the people coming to a wedding will all be arriving and leaving in a short space of time, not like a boat facility where people will be coming and going all day. Has this really been explored with the traffic representatives? Mr. Radway stated the parking lot holds about 110 vehicles and some of that will be people arriving prior to the event, so there would be about 100 cars maximum to an event. NCDOT is reviewing this plan now and are considering the sight distance to the entrance for the boat and RV facility. The current discussion is aligning the driveways so there will be turn lanes provided. Mr. Radway said this raises a good point, but we are in the process right now to hear back from NCDOT and we will comply with their comments.
- Ms. Colbert asked if there has been any marketing studies to see how many events per year will be needed at this location in order to make this a viable proposition and how does it address that there is actually a need for this use? Mr. Laad said we have been looking for the right location for this event center for the last four years and we have found all of the other event centers in the immediate area are all booked for the next two years. The market study does show a need for this event center and we also discovered we do not need to have events all week long but focus on weekend events. Ms. Laad stated most event centers around this area are all indoor or outdoor only and can only operate in the summer months, our center will provide a combination of indoor and outdoor option which is unique. Ms. Colbert asked how many events will be planned per year. Mr. Laad said right now the plan is 52 events per year.
- Mr. Smith asked if the two ponds would have some kind of protection around them to keep people out of them. Mr. Radway said yes, the plan is to install a fence round the ponds similar to what is required around a swimming pool. Mr. Smith also asked if there would be a turn lane when exiting the event

center, or will they be pulling out into traffic. Mr. Radway said regardless of what types of improvements NCDOT requests, like widening of the road, they will be exiting onto the road with moving traffic. Chair Spoon said NCDOT designates the sight triangles for returning back into the road.

- Jamie Andrews asked what type of research has been conducted in regard to noise buffering and has there been consideration the distance to the adjoining neighbors? Mr. Radway said one of the ways to reduce noise pollution is to have the volume controlled. A complete dense evergreen buffer with 50' in height and 400' wide produces a measurable buffer and will reduce controlled volumes. We have also worked with the adjoining property owners and we will notify the neighbors when an event is planned. Ms. Laad said normally the DJ will be located within the enclosed building, which will also reduce the noise. Ms. Plummer stated the Chatham County Noise Ordinance is enforced by the Sheriff deputies and they measure the decibels at all areas of the property and if they are called out to the location, it will be addressed.

Motion made by Jamie Andrews to approve the consistency statement, "The project supports the land use plan by utilizing minimal area in order to preserve previously utilized farmland, protection of surface waters, and providing a small-scale, rural type business for the surrounding area." Seconded by Ms. Robertson. There was a vote and the consistency statement was approved 7-2, opposed by Chair Spoon and Ms. Colbert.

- Mr. Frazier asked if there was a way procedurally to open the buffer so the wildflowers could be seen from the road? Ms. Plummer said she understands why Mr. Frazier would like to see the wildflowers, but this site plan complies with the standards we have in the zoning ordinance as the minimums. However, if this item is approved, we could take it before the Appearance Commission again and see if some plants could be shifted and still meet the zoning ordinance requirements. Mr. Frazier said then maybe in the motion we could make a suggestion that the applicant revisits the Appearance Commission to achieve that goal. Ms. Plummer said that is okay.
- Ms. Colbert said she will be voting against this item for the same reason she voted against the storage facility, because this location is outside of the node that is designated for this type of activity, but the applicants did do a good job on this project and the objection is towards the amount of scope creep we are getting along this stretch of road and feels it is not consistent with Plan Chatham. Chair Spoon said that is why he will be voting against this item as well, he does not agreed to jump outside of the node, but this is a good plan and appreciate there is only 9% of impervious surface and wished the applicant good luck with the business.

Motion made by Mr. Frazier to approve this rezoning item with the suggestion that the applicant explore alternatives for the landscape design by making the wildflower field visible from the road. Seconded by Mr. Smith. There was a vote and the item was approved 7-2, opposed by Chair Spoon and Ms. Colbert.

2. A general use legislative public hearing rezoning requested by Renago Inc to rezone Parcel 5626, located on Christian Chapel Church Rd., from R-1 Residential to Ind-H Heavy Industrial, being 37 acres, Cape Fear Township.

Ms. Plummer stated a legislative public hearing was held May 20, 2024 and the Planning Department staff presented the request. The applicant's representative, Matthew Carpenter with Parker Poe Attorneys provided a presentation and the owner of Bluesky Solutions LLC also spoke. No one signed up to provide additional comments during the hearing.

During his presentation, Mr. Carpenter stated that even though this is a general use rezoning and there is not a site plan or specifics to be reviewed at this time, they are aware of a proposed end-user for the site. Bluesky Solutions LLC is a battery recycling industry, specifically lithium-ion batteries found in cell phones, electronics, etc. Commissioners asked about EV batteries and the owner stated they would take those as well. Commissioners then got into conversation about what that process looks like, where does the waste go for products that cannot be utilized, etc. Mr. Carpenter stated that he has been having conversations with Planning staff to determine if this use would be allowed by right, require a Special Use Permit, or go through the Hazardous Waste Ordinance regulations. That has not yet been determined as staff is consulting with the county attorney. The owner did state that material like nickel and cobalt are shipped out, copper processing is done in Canada where it is burned so there is no waste landfilled on-site.

This area of the county is zoned Heavy Industrial to the west, R-1 Residential to the north, south, and east. All of the property to the east and into the adjacent county is owned by Duke Energy to the Sharon Harris Nuclear plant. When considering a general use rezoning, all uses listed in Section 10.13 of the Chatham County Zoning Ordinance listed under the proposed zoning classification are permitted by right or require a special use permit. Uses listed as SUP³ are permitted uses by right if connected to public water and sanitary sewer. However, due to possible limitations such as wastewater capacity, access to public utilities, built upon area limits, etc., not all uses are feasible. The decision to approve a general use rezoning shall be determined by the following criteria.

- 1. Any alleged error in the Ordinance, if any, which would be remedied by the proposed amendment.** No errors in the Ordinance are being claimed.
- 2. The changed or changing conditions, if any, make the proposed rezoning reasonably necessary.** This parcel is located opposite the VinFast auto manufacturing site on Christian Chapel Church Road and larger Triangle Innovation Point megasite.

In 2023, the county adopted the small area plan for Moncure. The previously approved manufacturing facilities and the anticipated growth will generate the need for supporting industrial space. Plan Moncure specifically states the demand for these types of services in Appendix B, pages 4-5.

This site sits between the VinFast auto manufacturing site and a Shearon Harris nuclear power plant. Plan Moncure designates this area as an Employment Center which calls for industrial and non-residential uses and states it is less suitable for residential development due to its location to these other heavy industrial uses.

3. The manner in which the proposed rezoning will carry out the intent and purpose of the adopted Land Use Plan or part thereof.

- Chapter 2: Issues & Opportunities – The proposed rezoning will help to facilitate the development of industrial uses which require fewer services from the county and help rebalance the tax base.
- Chapter 3: Goals & Objectives – Goal 4 diversity of the tax base can be accomplished. It is located in a Rural designation in the land use map but within the Employment Center of Plan Moncure to aid in establishing a community-based vision to guide the further of southeastern Chatham County.
- Chapter 4: Page 117 – part of fostering a healthy community is to provide opportunities for recreation. Although this parcel will not directly provide an opportunity as a recreational site, it can provide additional revenues to the County which can be used to fund parks and other County amenities. Its revenue without creating additional residential units which strain County services.

4. **Other factors/reasons for supporting the rezoning request.** Christian Chapel Church Rd is an approved NCDOT state-maintained road and designated as a “secondary route.” The majority of parcels along the road frontage are undeveloped. Once an end-user is identified, NCDOT will evaluate any proposed impacts and traffic assessments. Other reviews and permitting such as site plan, access, stormwater, etc. will all be required to be reviewed by the County before any construction may begin.
5. **All other information required on this application or as offered by the applicant in support of the request.** The property does not have access to public water or sewer so it is anticipated that well and septic will be utilized in the future development of the site.

The property is located within the WSIV-Protected Area watershed, not within the Jordan Lake rules. Up to 36% of the site can be developed in impervious surface (BUA).

Ms. Plummer said the Planning Board has up to three meetings in which to make a recommendation to approve or deny the request to the Board of Commissioners.

If approval is recommended, the following Consistency statement has been provided for consideration:

- This rezoning is consistent with Plan Moncure by being located within an Employment Center node that encourages a mix of uses being office, industrial and supporting retail and industrial uses.
- Chair Spoon said right now we are in the process of determining whether or not this falls under the hazardous waste ordinance regulations, if it is determined that it is, then is that an entirely separate process? Ms. Plummer said we do not have the use before the Planning Board tonight.
- Ms. Robertson said she is curious about air pollutants in this area because this is such a broad rezoning to heavy industrial and this location is close to residential areas and there is a lot of other heavy industrial in the area. Do we have documentation or any data on air pollution within this area? Ms. Plummer said each industrial project that comes in for us to review must apply with the state at the Division of Air Quality and go through all of their permitting processes. The county will receive annual reports, but as of right now nothing has been up and running in this area with the exception of Shearon Harris nuclear power plant. There are regulations that govern air pollution so whatever use that will go here, will be required to follow all state regulations. Mr. Sullivan stated in regard to the coal ash project, the state and the county did air quality measurements and those recordings should be located in the Managers Office.
- Vice-Chair Roodkowsky said this is adjacent to a nuclear power plant and they must have to follow strict regulations, are there any issues with a hazardous material operation next to a nuclear power plant and will Shearon Harris be able to weigh in on any of their concerns? Ms. Plummer said yes, as an adjacent landowner, there are things that the state will automatically do that we will not even know about until after it is completed, but there is a lot that goes into this process. Our environmental staff in the county will be the conduit between the county, the state, and the applicant.
- Mr. Mayer said for tonight we are only looking at this parcel and determining if heavy industrial is appropriate for this location, and if it is determined to have hazardous waste implications then there will be a control agency regulating this? Ms. Plummer said once a use is determined and it is a use by right, then they will be able to move forward, but if it is a use that will require a special use permit, then this

board will see what that use is and the site plan. Mr. Mayer said then it is likely we will see this property again in the future. Ms. Plummer said it is possible if the use is not permitted by right.

- Mr. Matthew Carpenter the representative for the applicant gave a brief presentation of the rezoning and said we are asking for a general use rezoning from R1 to heavy industrial in the county's focused area for industrial development. Right now, we are at the very beginning of this process. The question for tonight is whether this area appropriate for heavy industrial uses and if the board determines that it is, then all of the following development approvals will be required. Mr. Carpenter showed the board the parcel on GIS and illustrated how all of the surrounding area is industrial uses and there are no home sites nearby. There is a lot going on in this area like VinFast, Duke Energy, and Shearon Harris. The applicant waited until the Moncure Small Area Plan was adopted before we moved forward with the rezoning request because we wanted to wait for those designations to be located. Now that Plan Moncure has been approved, we are looking at it for guidance to determine if the rezoning request is appropriate. The designation area here is an employment center which calls for those industrial uses that are permitted in heavy industrial as well as office use and employment uses to capitalize on the economic development region. This request is also consistent with several policies listed within the Comprehensive Plan, one of which is balancing out the county's tax base. Right now, the current tax base is 86% residential and only 14% non-residential and this will help balance that tax base. Lastly, based on the plans and policies we believe this plan is in the public's interest, it is consistent with Plan Moncure, the Land Use Plan, and it is the appropriate area for these types of heavy industrial uses. Again, this is just the first step, if this use requires a special use permit we will have a quasi-judicial public hearing and then be before this board again with a specific use and site plan.

Board Discussion

- Vice-Chair Roodkowsky said this area is suitable for industrial and not residential. There was a slide showing the greater and lesser suitability for residential, how far away will the people who live in modest housing need to live that may work within this industrial area? Ms. Plummer said the area that has a greater suitability is around Old US 1 and US Hwy 1 and it is not far of a drive to this area.
- Chair Spoon asked without access to public water or sewer, how many employees does this project anticipate to support with the suitable soils? Mr. Carpenter said as of right now we are not sure, but that is something we will explore later on in the process.
- Chair Spoon said to the board, with Plan Moncure which was just approved, is this one of the parcels we foresee being part of the heavy industrial landscape in Chatham County and if so, is there a motion?

Motion made by Vice-Chair Roodkowsky to approve the consistency statement, "This rezoning is consistent with Plan Moncure by being located within an Employment Center node that encourages a mix of uses being office, industrial and supporting retail and industrial uses." Seconded by Jamie Andrews. There was a vote and this consistency statement was approved 9-0, unanimously.

Motion made by Mr. Frazier to approve this rezoning item, seconded by Mr. Mayer. There was a vote and this item was approved 9-0, unanimously.

VIII. NEW BUSINESS:

- Jamie Andrews introduced themselves and said they use they/them pronouns and has been living in Chatham County for about a year and lived in the southern part of Orange County for two years prior to moving. Jamie Andrews said they moved down to North Carolina from Michigan to attend graduate school at UNC Chapel Hill after graduating from Michigan State. They have been interested in community development, planning, and a lot of related topics for a long time, so when they moved down to this area they wanted to get involved in the community. Jamie Andrews said joining the Planning Board would be a good way to get involved within the community. Jamie Andrews said they have accepted a job with Chatham County and starting in July they will be working with the Community Development department.
- Chair Spoon said in our closed session we had discussed open meetings law in regard to emailing the whole Planning Board and he had recently been reviewing those notes and some of the guidance from the School of Government. When we are emailing the whole board if we could limit that to just sharing information and not editorializing or taking a position, that starts to get close to deliberations which is specifically not allowed. It would be better to take the safer approach as we move forward, and at some point we should have a state statute that addresses email communications and virtual meetings. Eric Andrews said when he attended the School of Government they said sharing facts was okay, but responding is when we can get into an issue of open meetings law. Rather than putting all of us in this position, if anyone has something they would like to address the whole board about it could be added to the agenda or during a session like this, new business, speak about it in person at the meeting. Chair Spoon said maybe we could send information to Mr. Sullivan and then have him disseminate information to the board.
- Ms. Colbert said she does not have a clear understanding of what Chair Spoon is referencing. Chair Spoon said any email that includes all Planning Board members and staff. Ms. Colbert said that is not what the county attorney said and any email that is sent has nothing to compel anyone to reply all, they can reply to a single individual and that takes care of the problem. Chair Spoon said it seems the majority is comfortable filtering information through Mr. Sullivan and that is the way we should handle it moving forward. Ms. Colbert said if that is how we are going to proceed then someone should bring forward a resolution to outline what the expectation is. Chair Spoon said we can look at that in a future meeting, we just do not want to have improper meetings and violate the open meetings law because of email exchanges.
- Ms. Robertson said the previous discussion we had about the email topic was just do not respond, that is what our attorney said and the email Ms. Colbert sent specially said please do not respond in the subject line. Ms. Robertson said she personally does not feel comfortable to say we will never do that again because something could come up that is relevant and timely to get out before we meet. If the majority say this is the way we want to move forward, that is okay, but just Chair Spoon and Eric Andrews does not make the majority. Mr. Smith said he does not open the emails because he does not want to be bias towards any application the board will be making a recommendation on. Mr. Mayer said generally he is not in favor of stopping the sharing of information, as long as it is just basic information and would need more time and discussion to produce a procedure that outlines sharing of information in an email. Mr. Mayer said he understands replying and giving opinions is inappropriate, but sharing general information he is in favor of. Chair Spoon said he thought filtering the information through Mr. Sullivan would be an easy fix, but if we need to discuss this further at a future meeting and create a plan that everyone is comfortable with and has a resolution that is in line with those discussions.
- Vice-Chair Roodkowsky said she feels the same as Mr. Mayer and appreciates a lot of the information Ms. Colbert has sent, however, we do need to be careful of the law. If we were to send an email with all members and copy Mr. Sullivan, would that meet the requirements of having it on the record? Chair Spoon said the issue is we have to give proper notice to the public if we were to have an open meeting.

If an email turns into a conversation where members are emailing back and forth about the content of something, we are in essence having an open meeting we did not give notice for, and that is a violation. Ms. Colbert said our county attorney told us that sending the email is not the issue, it is the responses that can be the problem. Ms. Colbert said it is not right when someone is simply providing information and if someone wants to reply, they need to individually reply back to that board member because that is not a majority and that is not a meeting. There seems to be a perception here that does not actually exist. Ms. Robertson personally does not think this will not be an issue anymore because we are all more educated and understand the rules and laws of open meetings. Going forward we all know how this works and we do not reply all in an email, sharing information with the board is within the law. Chair Spoon said he is just trying to find a way that will make everyone feel comfortable and we will look at the next meeting if someone wants to put forward a resolution during our agenda and codify how we will move forward, and if not we will revert back to the status quo. If people are going to email the whole board please do what Ms. Colbert did and say do not reply all and follow those instructions and do not reply to everyone until we have some guidance we all feel comfortable on this topic.

IX. BOARD MEMBERS ITEMS:

1. Update from the Planning Board liaisons.

- Chair Spoon said the UDO subcommittee did not have a meeting.
- Ms. Robertson said she was not able to attend the Pittsboro meeting.
- Ms. Colbert said she called the Siler City Planning department because of the lack of information on their website and spoke to Tim Garner, who is a Planner and he said Siler City has a new Planning director and in the May 15th meeting there was some discussion on their Comprehensive Plan, but no action items. The next meeting will be June 10th. Mr. Garner did say there was some glitches during the transition between the older staff and the new staff and they will be working on updating their website with current meeting information and fixing broken links. Their Comprehensive Plan draft will be going to the Town Council for review.

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

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

X. PLANNING DIRECTOR'S REPORTS:

Mr. Sullivan reported on the following:

1. Minor Subdivisions / Exempt Maps - See Attachments.
2. Unified Development Ordinance Update.
3. June Public Hearing Items.
 - Because of His Frace Rezoning

- Tripp Mobile Home Park Rezoning
- Neon Impressions S.U.P. Revision
- Southern Towers S.U.P.

XI. ADJOURNMENT:

There being no further business, the meeting was adjourned at 8:51 p.m.

Signed: _____ / _____
Jon Spoon, Chair Date

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