

CHATHAM COUNTY PLANNING BOARD
MINUTES
October 7, 2008

The Chatham County Planning Board met in regular session on the above date in the auditorium of the Agriculture Extension Building in Pittsboro, North Carolina. A quorum was present to begin the meeting. The members present were as follows:

Present:

Sally Kost, Chair
Warren Glick, Vice-Chair
B. J. Copeland
Karl Ernst
Barbara Ford
Judy Harrelson
Jim Hinkley
David Klarmann
Peter Theye
Delcenia Turner

Absent:

Susan Levy

Planning Department:

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

- I. CALL TO ORDER: Chair Kost called the meeting to order at 6:30 p.m. She stated that some Planning Board members have requested an earlier adjournment tonight (8:45 p.m.) due to their interest in the Presidential debate scheduled for 9:00 p.m.
- II. APPROVAL OF AGENDA: Ms. Harrelson made a motion; seconded by Ms. Turner to approve the agenda as submitted. There was no discussion and the motion passed unanimously.
- III. CONSENT AGENDA:
 - A. Consideration of a request for approval of Planning Board minutes as follows:
 - August 28, 2008 – Special Meeting
 - September 2, 2008 – Regular Meeting
 - September 17, 2008 – Special Meeting

September 2, 2008 minutes - the following revisions were noted:

Page 151, 4th paragraph, last sentence that reads, “Mr. Ernst stated that we are not required by law to hold a public hearing” – change to read, “Mr. Ernst referenced the Planning Director’s comment that we are not required by law to hold a public hearing”.

Page 157, 5th paragraph, last sentence that reads, “Mr. Hinkley stated that good examples were, “The Parks at Meadowview”, and “The Glens”. – strike the word “good”.

Mr. Hinkley made a motion; seconded by Ms. Turner to approve the consent agenda as submitted consisting of Planning Board minutes (as revised). There was no discussion and the motion passed unanimously.

End Consent Agenda

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

There were no requests to speak at this time.

V. PRELIMINARY PLAT APPROVAL:

A. Request by The Retreat on Haw River, LLC on behalf of Polk-Sullivan LLC and Chatham Partners, LLC for subdivision preliminary approval of "The Retreat on Haw River, Phase 2, consisting of 63 lots on 272.62 acres, located off S. R. 1711, Bynum Ridge Road, Baldwin Township.

Ms. Richardson reviewed the agenda notes for this request.

Nicolas P. Robinson, attorney, and **Michael Zaccardo**, engineer with the CE Group, Inc., were present representing the applicant.

Board discussion followed. Some specifics noted were:

- stream determinations – Fred Royal (if requested by Board) to make certain that S&EC and Corps of Engineers' information is correct
- difference of opinions regarding potential streams
- features not identified on plat map, i.e. trench, crossing, easements to open space
- insure that the first 100 feet to river is an undisturbed buffer
- length of cul-de-sac
- connectivity

Mr. Robinson stated that the trench referenced above is actually an old pre-existing farm road that has not been used for some time; that the original map would indicate the easements to the common open space; that, with reference to the undisturbed buffer, it is unusual to put the entire condition language on the plat, but would be in the restricted covenant; and that the length of the cul-de-sac is approximately 3500 feet.

No adjacent landowners requested to speak.

Motion to approve: Mr. Theye made a motion; seconded by Mr. Ernst to grant preliminary plat approval as submitted and as recommended by staff; with approval of the proposed road names 'Sanctuary Ridge Road', 'Chapel Creek Lane', 'Drake's Meadow Drive', 'Heron's Ridge Lane' with the following two (2) conditions:

1. The developer shall continue to work with and notify the Historical Association if any structures or cemeteries are discovered on the Phase 2 portion during road construction or lot clearing.

2. A note shall be placed on the final plat designating the maintenance responsibility of the common open space.

Motion amended: Mr. Hinkley amended the motion **to include the identification on the plat map of trenches (old logging roads) and corridors considered to be common ground as part of the common open space.** Mr. Glick seconded the amendment to the motion. There was no further discussion and the motion to amend passed 7-3-0 with Hinkley, Glick, Kost, Ford, Harrelson, Theye, and Turner voting in favor of the motion; and Copeland, Ernst, and Klarmann voting against.

Vote on motion: There was no further discussion and the motion for approval [with amendment] passed unanimously.

- A. Request by Sears Design Group, P. A. on behalf of Wade Barber, Jr. for subdivision preliminary plat approval of "Henderson Place" (fka Barber Lands), consisting of 45 lots on 60 acres, located off South Langdon, S. R. 1835, Williams Township.

Ms. Richardson reviewed the agenda notes for this request. She noted that the owner would address additional buffers to the southern area of the property.

Wade Barber, Jr., property owner was present. Mr. Barber stated that stream surveys were done using the Chatham County GIS maps; that he asked that the Board postpone review of the request as soon as it was noted that there was a question regarding streams on the property; that the streams had never been identified at sketch design approval; but that since this time these streams have been addressed. Mr. Barber distributed copies of two maps illustrating the buffering for the intermittent stream beginning on lot #16, marked "G". He stated that this stream has been voluntarily buffered on both sides as shown on the map; and that lot #7, marked "H" was voluntarily buffered for stream protection and open space.

Board members discussed connectivity and the rock chimneys (2) located on the site.

Mr. Barber stated that there are no stub-outs to adjoining properties on this land since this was a previous issue with some Fearington landowners; but that stub-outs were initially proposed.

Dan Sears, Sears Design Group, P.A. was present representing the development. Mr. Sears stated that the old chimneys on the property would be photographed for historical purposes.

ERB recommendations

Mr. Barber stated that this was a thorough process and that some initial changes were made as follows:

- moved the 3 acre park eliminating several hundred feet of road and road right-of-way reducing impervious surface
- relocated road to avoid steep slopes
- two streams protected / open space – extended buffering

- 50 foot natural area all around the project
- net result: 16-1/2 acres or 28% is protected natural area
- public drainage easements – complying with NCDOT standards

Motion to approve

Mr. Hinkley made a motion; seconded by Ms. Turner to grant preliminary approval of the plat as submitted and as recommended by staff; with approval of the road name ‘Henderson Place’; with the following two (2) conditions:

1. Prior to any land disturbing activity, the Chatham County Historical Association, be allowed to visit the site to document any evidence of historical nature.
2. The developer shall consult with NCDOT to determine the width and length of “public drainage easement” requested by NCDOT; and to label the balance of the drainage easement “private”.

Discussion followed.

Hardwood forest areas/ stream protection

Mr. They was concerned about the preservation of the hardwood forest areas on the property. Mr. Barber stated that there is a 100 foot buffer along the stream on the east side to protect the 2.7 acres with an additional 1.7 acres just below this acreage. Ms. Richardson noted that the revised map (distributed tonight by Mr. Barber) does protect the intermittent part of the stream with a 50 foot buffer; but that the ephemeral part of the stream is not buffered since these were not required to be buffered at the time of sketch design approval. Ms. Harrelson, Mr. Hinkley and Chair Kost thanked the developer for going above and beyond our regulation requirements. There were no further comments.

The motion for approval passed unanimously.

VI. EXTENSION OF PRELIMINARY PLAT EXPIRATION:

- A. Request by Charles Lewis, Vice President, Lewis Metty Development, LLC for a one (1) year extension of preliminary plat expiration for Cedar Mountain Subdivision from January 16, 2009 to January 16, 2010.

Chair Kost noted that tonight’s agenda notes (under “Subject”) references expiration from January 16, 2009 to January 16, ~~2020~~; and that this should read 2010. It was noted that staff would correct this before sending to the Commissioners.

Ms. Richardson reviewed the agenda notes for this request. She stated that the developer is asking for an extension of their preliminary plat because of the difficulty in completing the road through the property due to running into extensive rock. (See letters in tonight’s packet from Charles Lewis, Vice-President, Lewis Metty Development, LLC and John W. Harris, P.E., Consulting Engineer, explaining these difficulties.)

No adjacent property owners requested to speak.

Board discussion followed. Some specifics noted were:

- length of cul-de-sac
- rock discovered in first or two phases
- timing, i.e. weather
- new stream buffer rules – encourage to incorporate into this plan

Kirk Metty, applicant was present. Mr. Metty addressed some of the specifics noted above. He stated that weather has been a factor with the timing of the development; that the disposal of the rocks would be addressed as lots are built upon; that a walking trail has been created to address some buffering concerns; that the existing stream has a 50 foot buffer; that no previous extension requests have been issued on this project; that it is possible that more acreage could be allocated for open space along with the walking trail for public usage; and that he is uncertain what the conditions are for the road construction on the other side of the road.

Motion to approve

Mr. Ernst made a motion; seconded by Mr. Klarmann to grant a one year extension of preliminary plat expiration to change the expiration date from January 16, 2009 to January 16, 2010, as requested and as recommended by staff. There was no further discussion and the motion passed 9-1-0 with all Board members present voting in favor of the motion except Mr. Theye who voted against.

Convene at Watershed Review Board

Mr. Ernst made a motion; seconded by Mr. Glick to recess as the Planning Board and convene as the Watershed Review Board. There was no discussion and the motion passed unanimously.

VII. ZONING AND ORDINANCE AMENDMENTS: - *Items from 9-15-08 Public Hearing*

- A. Request from Richard Weston-Jones for a text amendment to the Chatham County Watershed Ordinance, Attachment A, Permitted Uses, to add “Owner-occupied bed and breakfast homes with no more than two (2) rooms/units for rent to stays no longer than seven (7) consecutive days and located on legal, non-conforming and conforming lots of record, on at least one and one half (1.5) acres, which may have standard setbacks as set in the district in which they are located.”

Motion to approve

Ms. Ford made a motion; seconded by Ms. Harrelson to recommend approval of the text amendment as requested and as recommended by staff as follows:

Added language for the Chatham County Watershed Ordinance:

Attachment A, Permitted Uses, add “Owner-occupied bed and breakfast homes with no more than two (2) rooms/units for rent to stays no longer than seven (7) consecutive days and located on legal, non-conforming and

conforming lots of record, on at least one and one half (1.5) acres, which may have standard setbacks as set in the district in which they are located.

There was no discussion and the motion to approve the text amendment as stated above passed unanimously.

- B. Request from Fernando & Meredith B. Cardenas for a text amendment to the Chatham County Watershed Ordinance, Attachment A, Permitted Uses, to add “Horse Veterinary Clinics on tracts of land greater than ten (10) acres.”

Ms. Birchett reminded the Board that this request is an amendment to the Watershed Ordinance and is not a request for any particular activity on any one property. It was noted that staff recommendation does not limit the request to only horse veterinary clinics.

Motion to approve

Mr. Hinkley made a motion; seconded by Ms. Harrelson to recommend approval of the proposed text amendment addition to “Attachment A” as requested and as recommended by staff as follows:

Attachment A. List of Permitted Uses to include:

“Veterinary clinics and hospitals on parcels of land of at least 10 acres and where the use of x-ray equipment is limited to that of “digital” systems”.

There was no discussion and the motion to approve as noted above passed unanimously.

Reconvene as Planning Board

Mr. Ernst made a motion; seconded by Mr. Klarmann to adjourn as the Watershed Review Board and reconvene as the Planning Board. There was no discussion and the motion passed unanimously.

- C. Request from Irene Faircloth Gattis and Joseph Mosnier dba Historic Mann’s Chapel Event Center & Café to rezone approximately 4.545 acres, Parcel No. 62230 (1.4 acres) and Parcel No. 62254 (3 acres out of 6.61), Baldwin Township, located off Poythress Road and Lamont Norwood Road, from O & I (office and institutional) and RA-90 (residential / agricultural) to Conditional Use B-1 Business district.

Ms. Birchett reviewed the agenda notes for this request. She noted one clarification in tonight’s agenda notes as follows: 1st paragraph, add the word “**no**” as follows:

“Attorney Nick Robinson represented the applicants and stated there had been a community meeting held and **no** opposition was made.”

Board discussion followed. Mr. Hinkley inquired about the entrance and exit from the T intersection on the curb. Ms. Birchett stated that this would be discussed next during the conditional use permit review.

No adjacent landowners requested to speak at this time.

Jane Pyle was present representing the Chatham County Historical Association. Ms. Pyle noted that the landowner has stated that the historical significance and appearance would be maintained on the site.

Motion to approve

Mr. Klarmann made a motion; seconded by Mr. Ernst to approve the rezoning request to conditional use business district as submitted and as recommended by staff. Discussion followed. Ms. Birchett explained that if the property is rezoned but the conditional use permit is not approved then the property would maintain the Conditional Use B-1 Business zoning until a conditional use permit is approved. Mr. Hinkley recommended that this request be turned down until the next step (conditional use) is determined. He voiced concern for what would be the purpose to rezone the property and not approve the conditional use permit.

The motion to approve the rezoning request passed 9-1-0 with all Board members present voting in favor of the motion; except Mr. Hinkley who voted against.

D. Request from Irene Faircloth Gattis and Joseph Mosnier dba Historic Mann's Chapel Event Center & Café for a conditional use permit on approximately 4.545 acres, Parcel No. 62230 (1.4 acres) and Parcel No. 62254 (3 acres out of 6.61), Baldwin Township, located off Poythress Road and Lamont Norwood Road, for a eating and drinking establishment, a catering establishment, retail associated with the same, and for uses and structures customarily ancillary to such uses (including events and receptions).

Ms. Birchett reviewed the agenda notes for this request and the five (5) required findings. She referenced the E-mail received earlier today (copies provided Board members tonight) from Jennifer Britt with NCDOT regarding proposed driveway / site plans. The six (6) issues requiring revision for the Historic Mann's Chapel project noted were as follows:

1. Improve site distance to a minimum of 400 ft for both driveways. This may be accomplished by grading the bank along the property frontage and removing the existing well.
2. Ensure the position of the Lighted Signage Wall is such that it is not obstructing the sight distance triangles.
3. Send a sealed grading plan for our review.
4. Any plans submitted to our office should be sealed by the engineer.
5. Keep any proposed vegetation out of the right-of-way.
6. We request no vegetation be planted along the property frontage within the sight distance triangle.

Revision to staff condition #2

Ms. Birchett noted one revision to staff condition #2 - to add the word, "generally" as follows: "Signage shall be limited to those specifically listed in the application and **generally** as shown on the site plan".

The Board discussed lighting, signage, events to be held, and the surrounding area. Ms. Birchett noted that the exterior of the existing church would not be altered but would be maintained aesthetically as needed.

Gus Beck, landscape architect for the project, was present.

Nick Robinson, attorney, was present representing the applicant.

Regarding staff condition #5 that states, "These notes, application, and site plan in their entirety shall become part of these conditions and those specifications shall be met as applicable", Mr. Robinson suggested the following revisions to staff agenda notes:

Page 2, fifth paragraph, second sentence – add wording, "to the extent practical" as follows: "Mr. Mosnier also stated at the public hearing they would be incorporating **to the extent practical** LEED standards and other green initiatives in the remodel and design of existing and new areas".

Page 3, last paragraph, last sentence – add wording, "to the extent practical" as follows: "In the application for the conditional use district change, staff feels all of these measures have been met by saving the existing historic structure on the property and incorporating remodeling and refurbishing of existing structures along with the addition of a commercial kitchen, by incorporating LEED standards in those designs **to the extent practical**, by utilizing reclaimed water for use in flushing of toilets, and by finishing with 20% impervious surface when the Watershed designation allows for up to 36%".

Motion to approve

Mr. Copeland made a motion; seconded by Mr. Hinkley to grant approval of the application as submitted and as recommended by staff; with revisions to staff agenda notes as referenced above. There was no further discussion and the motion to approve the conditional use permit as submitted passed unanimously with the following [15] conditions:

Site Specific Conditions:

1. The recommendations provided by the Appearance Commission shall be followed. If at any time screening and buffering is not complying with the provision of this approval, the Appearance Commission, along with the Planning Department, shall make recommendations to bring said screening, plantings, or vegetation into compliance. The Chatham County Design Guidelines are incorporated into this approval as well. Landscaping shall be installed prior to issuance of a Certificate of Occupancy.
2. Signage shall be limited to those specifically listed in the application and as generally shown on the site plan. Lighting of any sign shall comply with the provision of the lighting section of the Zoning Ordinance at all times. Refer to Section 11A of the Chatham County Zoning Ordinance for specifications. Signage and signage lighting shall be approved prior to the issuance of a construction permit.
3. The first one inch of runoff shall be captured for the new impervious surface areas. A copy of an approved stormwater management plan shall be provided to the Planning Department prior to issuance of a Certificate of Occupancy.

4. A letter of approval of the construction of the access drives and turning point areas for emergency vehicles from the Chatham County Fire Marshal's Office shall be provided prior to issuance of a Certificate of Occupancy.
5. These notes, application, and site plan in their entirety shall become part of these conditions and those specifications shall be met as applicable.

Standard Site Conditions:

6. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Erosion & Sedimentation Control, Environmental Health Section, etc.) shall be obtained and copies submitted to the Planning Department prior to the issuance of a Certificate of Occupancy.
7. Lighting shall be installed and maintained as per the adopted lighting regulations located in Section 11A of the Chatham County Zoning Ordinance. Any lighting or fixtures found to be non-compliant, existing or new, with the regulations shall be replaced at the expense of the landowner/operator and shall hold no liability against Chatham County for the compliance measures.
8. An "as-built" impervious surface calculation shall be submitted to the Planning Department prior to issuance of a certificate of occupancy.
9. Off-site improvements required by NCDOT or any other agency shall be constructed at no cost to Chatham County.
10. A building permit shall be obtained and remain valid at all times or this permit shall become void. The first building/renovation permit shall be approved within 24 months of this approval or the permit becomes void; or from the time of the expiration of the appeal period or any court decision, whichever is later.

Standard Administrative Conditions:

11. Appeal - The County shall be under no obligation to defend any action, cause of action, claim, or appeal involving the decision taken herein. In the event a response is authorized by the County concerning this resolution, or any action to enforce the provisions hereof, the applicant, its successors or assigns shall indemnify and hold the County harmless from all loss, cost or expense, including reasonable attorneys fees, incurred in connection with the defense of or response to any and all known or unknown actions, causes of action, claims, demands, damages, costs, loss, expenses, compensation, and all consequential damages on account of or resulting from this decision. Nothing in this paragraph shall require the applicant to indemnify and hold the County harmless from any losses or costs associated with defense of the County's actions or procedures in considering and acting upon this application.
12. 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 inspection, established from time to time.

13. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued determination with the plans and conditions listed above.
14. Non-Severability - If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
15. 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.

Request to change vote on previous zoning request

Mr. Hinkley requested to change his vote on the previous request for rezoning. Chair Kost stated that it would require a motion to reopen the issue and that time was a factor; but that she would inform the Commissioners (if asked) of the request to change the vote.

- E. Request from Carolina Meadows, Inc. for a revision to the existing conditional use permit, Parcel No. 62114, 64734, 20033, 74450, located off Whippoorwill Lane, Williams Township, to develop the residual land within the existing boundaries to add 35 duplex villas and relocate the maintenance facility, reconstruct a new health care facility, and various other changes to existing structures and parking areas.

Mr. Klarmann recused himself from this issue.

Ms. Birchett reviewed the agenda notes for this request and the five (5) required findings. She noted three (3) revisions to staff notes as follows:

Page 1, first paragraph, second sentence – insert the word “one” as follows: “No **one** spoke in opposition of the request”.

Page 2, fifth paragraph, next to last sentence – change “sales tax” to “retail spending” as follows: “There are at least 14 new employment positions to be filled and an anticipated increase ~~sales tax~~ in **retail spending** of over \$1.5 million rising to about \$10 million overall”.

Page 5, Standard Site Conditions, #9 condition, second sentence – change 12 months to 24 months as follows: “The first building permit for the first structure or renovation shall be approved and submitted within ~~12~~ **24 months** of this approval or the permit becomes void”;

Finding #3

Staff discussed the concern raised at the recent public hearing regarding the need for a traffic signal at the intersection of Old Farrington Road and Whippoorwill Lane and a possible recommendation that this be further studied. Steep roadways in the area and the potential need for an emergency access off Old Farrington Road were also discussed.

Mark Ashness, Civil Engineer, CE Group, Inc. was present representing the applicant. Mr. Ashness referenced "Area A, Aerial Plan" map included in the application booklet dated August 15, 2008. He stated that Aqua NC has indicated that they are not opposed to a connection to the existing drive to the wastewater plant for emergency access for the project; that there is an existing access that the developer plans to abandon that could be used as a secure emergency access as a fall back; that everything proposed is complimentary with the existing duplex project in Area A; and that other improvements would bring existing facilities up to a current state of the art facility.

Water system

Mr. Theye referenced original conditions, Section B., Item 1 that states:

"Carolina Meadows shall develop a water source (wells) capable of delivering twice the continuous demand for water (which is established at 300 gal/unit/day) plus additional supply for other non-residential buildings and services; therefore, not less than 208 GPM in water supply shall be provided. This source shall be demonstrated prior to preliminary approval".

He inquired about the initial water system (wells) and if the wells had been sealed.

Mr. Ashness stated that when this project was conceived there was no water system; and that when the water plant was up and running the wells were abandoned (on Nature Trail property).

Sewage treatment

Mr. Theye referenced Section B., Item 5 that states:

"At the time of final approval, the developer may be required by the Planning Board to establish and maintain an escrow account to provide for maintenance and repair for the sewage system".

He inquired if this had been done and if not would it need to be done.

Mr. Megginson stated that this has not been done and that he did not think it was necessary; that now it is a utility that is licensed by the State of North Carolina that is operating the waste water system; and that generally the Utilities Commission oversees their rate structure.

Gray Styers, Attorney, Blanchard, Miller, Lewis & Styers, P.A. was present representing the applicant. He stated that Chapter 62 of the General Statutes requires that a performance bond be posted (Aqua NC).

Items of concern

Mr. Theye referenced E-mail from Fred Royal, Director, Environmental Resources, dated June 19, 2008 listing five (5) items of concern including a diversion channel note. He inquired if these concerns had been met by the developer and incorporated into the plan.

Ms. Birchett stated that Mr. Royal attended the recent Development Team meeting; that Mr. Royal stated that there were no concerns; that everything had been

addressed on the site plan; that he had been in contact with various people about the project; and that he was comfortable with the proposed layout. Ms. Birchett noted that she did not receive a copy of the e-mail that Mr. Theye referenced above.

Make part of conditions

Mr. Ashness stated that he has not spoken with Mr. Royal regarding the diversion channel but would be glad to address this issue with him. Mr. Theye stated that he would like this to be part of the conditions.

Health Center - access

Mr. Glick inquired about access to Mt. Carmel Church Road from the existing health center. Mr. Ashness stated that the center is an assisted care facility; that the access to Mt. Carmel Church Road is internal through an existing road in Carolina Meadows; that the road is a loop road; and that if this road should be blocked there are two other points of access further south on Whippoorwill.

Motion to approve

Mr. Theye made a motion; seconded by Mr. Copeland, to approve the request as submitted and as recommended by staff, with the condition that the concerns of Fred Royal be met regarding the diversion channel; and with revision to condition #9 (change 12 months to 24 months). Discussion followed. Chair Kost commented that the graphics in the application were very clear and various things were easily accessed. The motion to approve passed 9-0-1 with all Board members present voting in favor of the motion; except Mr. Klarmann who abstained. The [15] conditions are as follows:

1. All previous conditions not expressly listed in this approval shall remain valid.
2. The recommendations provided by the Appearance Commission, as stated in the application, and as shown on the site plans shall be followed. If at any time screening and buffering is not complying with the provision of this approval, the Appearance Commission, along with the Planning Department, shall make recommendations to bring said screening, plantings, or vegetation into compliance. The Chatham County Design Guidelines are incorporated into this approval as well. Landscaping shall be installed prior to issuance of a Certificate of Occupancy.
3. Signage is limited to that as stated in the application. Any illumination of signage shall follow the section on lighting in the Zoning Ordinance, Section 11A.
4. A plan for linking pedestrian trails shall be submitted to the Planning Department at each phase of the project before a Certificate of Occupancy can be issued.
5. The diversion channel noted by Fred Royal in his report dated June 19, 2008 shall be addressed detailing what its purposes is and how it will be constructed for such use. This document shall be provided to the Planning Department and approved by Mr. Royal before beginning any land disturbing activity or the issuance of the first building permit.

Standard Site Conditions:

6. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Erosion & Sedimentation Control, Environmental Health Section, etc.) shall be obtained and copies submitted to the Planning Department prior to the issuance of a certificate of occupancy.
7. Lighting shall be installed and maintained as per the adopted lighting regulations located in Section 11A of the Chatham County Zoning Ordinance. Any lighting or fixtures found to be non-compliant with the regulations shall be replaced at the expense of the landowner/operator and shall hold no liability against Chatham County for the compliance measures.
8. An "as-built" impervious surface calculation shall be submitted to the Planning Department prior to issuance of a certificate of occupancy for each phase of development.
9. Off-site improvements required by NCDOT or any other agency shall be constructed at no cost to Chatham County.
10. A building permit shall be obtained and remain valid at all times or this permit shall become void. The first building permit for the first structure or renovation shall be approved and submitted within 24 months of this approval or the permit becomes void; or the expiration of the appeal period or any court decision, whichever is later.

Standard Administrative Conditions:

11. Appeal - The County shall be under no obligation to defend any action, cause of action, claim, or appeal involving the decision taken herein. In the event a response is authorized by the County concerning this resolution, or any action to enforce the provisions hereof, the applicant, its successors or assigns shall indemnify and hold the County harmless from all loss, cost or expense, including reasonable attorneys fees, incurred in connection with the defense of or response to any and all known or unknown actions, causes of action, claims, demands, damages, costs, loss, expenses, compensation, and all consequential damages on account of or resulting from this decision. Nothing in this paragraph shall require the applicant to indemnify and hold the County harmless from any losses or costs associated with defense of the County's actions or procedures in considering and acting upon this application.
12. 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 inspection, established from time to time.
13. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued determination with the plans and conditions listed above.

14. Non-Severability - If any of the above conditions is held to be invalid, this approval in its entirety shall be void.

15. 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.

VIII. OLD BUSINESS:

There were no reports submitted.

IX. NEW BUSINESS:

A. Planning Director's Report

There were no reports submitted.

B. Planning Board Members Items

1. October 20, 2008 Public Hearing

Chair Kost stated that the Commissioners have scheduled a public hearing (on the above date) for five (5) ordinances (Subdivision, Zoning, Watershed, Soil and Erosion Control, and Storm Water)

2. Appreciation from Commissioner Lucier

Chair Kost stated that Commissioner Lucier asked that she extend his appreciation to the Planning Board for moving so rapidly in the special meetings held in order to complete the Subdivision Regulations and Zoning Ordinance proposed revisions.

X. ADJOURNMENT: There being no further business the meeting adjourned at 8:43 p.m.

Sally Kost, Chair

Date

Attest: _____
Kay Everage, Clerk to the Board

Date