

**Chatham County/Cary Joint Issues Committee**  
**June 16, 2009**  
**Cary Fire Station #7**  
**6900 Carpenter Fire Station Road, Cary**  
**9 a.m.**

Members Present: Co-Chairs Julie Robison and Sally Kost, Members George Lucier, Jennifer Robinson and Ervin Portman

Chatham County Staff Present: Charlie Horne, County Manager; Jason Sullivan, Assistant Planning Director

Cary Staff Present: Ben Shivar, Town Manager; Jeff Ulma, Planning Director; Tim Bailey, Engineering Director; Steve Brown, Public Works and Utilities Director; Susan Moran, Public Information Officer; Sue Rowland, Town Clerk

Kost began the meeting at 9:04 a.m.

The agenda for the meeting follows:

1. *Call to Order*
2. *Approval of agenda*
3. *Approval of the June 1, 2009 meeting minutes.*
4. *Comparison of Chatham County and Cary land development regulations*
  - Background Summary & Review of Topic(s)*
  - Identification of Key Issues & Concerns*
  - Discussion of Issues & Concerns*
  - Prioritization of Issues*
  - Direction/Further Investigation*
  - Decisions/Recommendations*
5. *Review and discussion of staff's proposed draft Land Use Plan*
  - Background Summary & Review of Topic(s)*
  - Identification of Key Issues & Concerns*
  - Discussion of Issues & Concerns*
  - Prioritization of Issues*
  - Direction/Further Investigation*
  - Decisions/Recommendations*
6. *Updates:*
  - a. *Renewal of Cary annexation moratorium*
  - b. *Chatham County/Orange County planning task force*
7. *Transportation planning - (Durham, Chapel Hill, Carrboro (DCHC) MPO (time permitting))*
8. *Topics for next meeting*
9. *Next meeting details*
10. *Adjournment*

**ACTION: Portman moved to approve the agenda; Robison provided the second; the committee granted unanimous approval.**

**ACTION: Portman moved to approve the June 1, 2009 minutes; Robison provided the second; the committee granted unanimous approval.**

**Comparison of land development regulations**

Bailey showed a map depicting the drainage basin for Jordan Lake and its watershed. Refer to **Exhibit A** attached to and incorporated herein for this map. He outlined a comparison of Cary, Chatham County, and State of North Carolina development regulations, which follows.

	<b>Town of Cary</b>	<b>Chatham County</b>	<b>State of NC</b>
<b>Stormwater Nitrogen Rules</b>	Yes – Required to treat for Nitrogen down to 3.6 lb/acre/year with no buy down option	No nitrogen reduction requirements	No regulations concerning nitrogen.
<b>Stormwater TSS Rules</b>	Yes – Have to treat for 85% TSS for areas that are more than 24 percent impervious treatment in bmp's	Yes – Have to treat for 85% TSS for projects that disturb greater than 20,000 square feet treatment in bmp's	Required to treat 1 <sup>st</sup> inch of runoff for TSS. Based on high density option.
<b>Watershed Rules</b>	Yes – allows for development based on density and use of structural bmp's	Yes – density based development	Yes - density based development and use of structural bmp's
<b>Riparian Buffers and Urban Transition Buffers</b>	Yes – has 100 foot buffers on blue line streams indicated on USGS perennial and intermittent and 50 feet on Soil Survey Maps; also require connectivity for underground streams and linear wetlands TOC does not allow lots to be platted in the buffers	Yes – has 100 feet on perennial indicated streams or be the full extent of area of the Special Flood Hazard Area; 50 feet on intermittent streams;30 feet on ephemeral stream; 50 feet on wetlands; and 30 feet on seeps and springs	No buffers on streams within the Jordan Lake Watershed The State has watershed buffers on perennial streams based on density 100 foot at high density and 30 foot at low density
<b>Stormwater Peak Attenuation 10year/24 hour</b>	Yes- Cary requires the attenuation of the 1year/24 hour storm and The Town of Cary requires attenuation of the 2, 5, and 10 year storm event at each point of discharge	Yes – requires attenuation up to the 10 year/24 hour event analysis of the 1, 2, 5, and 10 year/ 24 hour event shall be submitted for the project as a whole	None
<b>Phase 2 Rules</b>	Yes – Town of Cary has a NPDES Phase II permit for stormwater – requires implementation, public education and	Chatham County is not a phase 2 community.	N/A, State does not have a MS4 area

	<b>Town of Cary</b>	<b>Chatham County</b>	<b>State of NC</b>
	outreach, public involvement and participation, illicit discharge detection and elimination, construction site runoff controls, post construction controls, pollution prevention and good housekeeping for municipal operations		
<b>Illegal Discharge</b>	Yes – regulations concerning the enforcement of illegal discharges and enforcement and watercourse protection	Yes – Has regulations on illegal discharge and illicit connections	Yes – enforce general statutes
<b>Stormwater Plan Submittal Threshold</b>	Yes – The Town of Cary requires that a project submit a stormwater plan if they are disturbing more than 12,000 sq ft.	Yes – Chatham County requires a project to submit a stormwater plan if disturbing more than 20,000 sq ft.	Yes - if required as part of other permit issues (404/401 permits)
<b>LID</b>	Yes – Town of Cary allows for the use of LID techniques in development so that the stormwater management is achieved as part of the ordinance	Yes – Chatham allows conservation planning with the use of LID techniques in the subdivision plans	Yes – allows for the use of LID techniques in development
<b>Single Family Home Regulations</b>	Yes – Cary requires single family lot controls within a subdivision requires signoff on building permit	Yes – requires a permit that includes a plan and permit for disturbing 25,000 sq ft or less for a single family dwelling	None
<b>Sedimentation Erosion Control Plan</b>	Yes – If a disturbance is 12,000 sq ft or greater you are required to get plan approval and permit	Yes – If disturbance is 20,000 sq ft or greater you are required to get plan approval and permit	Yes – If disturbance is 1 acre or greater you are required to get plan approval and permit
<b>Steep Slope Ordinance</b>	Yes – requires that slopes be stabilized using criteria based on slope steepness; steep slopes have priority as open space	Yes – requires limits on amount of grading allowed on steep slopes and requirements for stabilizing	None
<b>Phased Grading Regulation</b>	Yes – Requires a 25 acre limit on low and medium density	Yes – requires limits on grading of areas that have slopes	None

	<b>Town of Cary</b>	<b>Chatham County</b>	<b>State of NC</b>
	subdivisions		
<b>Open Space Requirements</b>	Yes – there is a open space requirement for site plans that require 500 sq ft of open space per dwelling; requirement for the location of open spaces and restrictions on what is allowed in open spaces	Yes – required to have open space as part of the development with allowed uses within the open spaces	None
<b>Flood Plain Regulations</b>	Yes – Requires that lots are not allowed to be platted into the floodplain, require a flood study if stream on project drains more than 50 acres no development allowed in flood plain.	Yes – requires no new construction within the Special Flood Hazard Area	Yes – State has guidelines for flood plain regulations regarding development

Bailey stated the Cary staff put this together very quickly to have something before the committee at this meeting, and they did not have adequate time to involve Chatham County staff, although Cary staff did obtain and read Chatham County's ordinances. Chatham County members pointed out instances that they believe are incorrect in the comparison and requested that Chatham County staff provide input into this document. Both staffs will work together to refine and correct this document and will have it ready for the next committee meeting. Specific comments about this document follow:

- Lucier pointed out that Chatham County has nitrogen requirements. They have a number, but it is not calculated.
- Bailey highlighted one of the most significant differences is the riparian buffers and urban transition buffers.
- Bailey stated if the new Jordan Rules are adopted, then many of the Phase 2 Rules will also be required for Chatham County.
- Lucier stated the purpose of this comparison review is to seek commonalities with environmental regulations. Bailey stated the Jordan Rules will force more commonalities.
- Portman asked the timing for the Jordan Rules. Bailey stated the General Assembly must adopt them and put them in place; staff anticipates a near-term effective date. The State must prepare modeling ordinances to provide to local governments. Bailey expects the effective date to be effective in less than two years, but the retrofit rules will lag behind.
- Lucier suggested that the committee refer to this document as they go through the joint land use planning process.
- Kost would like to also see what the regulations will be under the new Jordan Rules.
- Robison wants to hear from staff if there are any areas that will fall into the 30-foot ephemeral streams. Bailey stated they are not mapped, and it would take a field determination to define them. He stated there will be a lot of them.
- Portman asked staff to define a blue line stream. Bailey stated the maps show solid and dashed blue lines. The solid blue lines are perennial streams. The dashed blue lines tend

to be anything that will have water year round, including farm ponds. Cary's regulations apply 100-foot buffers to solid and dashed blue lines.

- The committee will review the revised document at the next meeting to highlight the changes.

### **Draft Land Use Plan**

Refer to **Exhibit B** attached to and incorporated herein for a regional depiction of land use plans and zoning in the overall region, including adjoining municipalities and counties. Refer to **Exhibit C** attached to and incorporated herein for the proposed joint land use plan. Both Chatham County and Cary staffs worked on this revised draft plan, which is computer-generated and based on committee direction provided at the last meeting.

A description of the conceptual plan changes follows:

#### **Description of Conceptual Plan Changes ~ For Discussion Purposes Only ~**

#### **June 16, 2009, Meeting of the Chatham-Cary Joint Issues Committee**

Staff has drafted a conceptual plan map based on our understanding of the guidance from the June 1, 2009, meeting of the Chatham-Cary Joint Issues Committee. Please note that the map is a first cut at developing a possible new alternative and has not been "refined." Review and guidance from the committee is needed before staff performs further work. Highlights of the changes include:

1. Within ½ mile of the mean pool elevation of Jordan Lake, the maximum recommended density never exceeds 1 dwelling per 10 acres.
2. A 1/4-mile buffer has been placed around all property owned by the U.S. Army Corps of Engineers (COE), and all property within that zone has been designated for a minimum of 1 dwelling per 10 acres.
3. Within 1 mile of the mean pool elevation of Jordan Lake, the maximum recommended density never exceeds 1 dwelling per 5 acres.
4. The only exceptions to the above three items occurs for sites that Chatham County has already zoned for nonresidential purposes.
5. Proceeding eastward from the 1-mile lake buffer and ¼-mile COE buffer, residential densities generally transition upwards, first to 1 dwelling per acre, and then to 2 dwellings per acre.
6. In some cases, where a limited amount of land or a subdivision is "surrounded" by lower residential densities based on the buffers described above, the residential density has been dropped to reflect the surrounding densities. Also, in some cases the recommended residential density for an existing subdivision was reduced in order to reflect the actual average lot sizes in that subdivision.
7. The conceptual plan now includes an Office Park/Employment Center of approximately 840 acres that stretches along both sides of Lewter Shop Road, from the intersection of NC 751 to the County Line.
8. A conceptual commercial node of about 50-60 acres has been placed around the intersection of Lewter Shop Road and NC 751 Hwy.
9. Two joint public park and school sites have been added to the map. The first park and school site has been sited on Green Level West Road, and the second park and school site is conceptually located north of Lewter Shop Road, near Ferrell Road.

**Acreage Statistics and Projected Buildout for June 16, 2009, Conceptual Draft**

	Gross Acres	Max. Dwelling Units	Nonresidential Building Floor Space (in Sq. Ft.)	Population Estimate	Employment Estimate (persons)
Residential, 1 unit per 10 ac.	6,374	637		1,787	0
Residential, 1 unit per 5 ac.	1,095	219		614	0
Residential, 1 unit per 3 ac.	213	71		199	0
Residential, 1 unit per 1 ac.	667	667		1,869	0
Residential, 2 unit per 1 ac.	1,182	2,364		6,626	0
Commercial	57	0	446,926	0	1,117
Office Park	840	0	6,403,320	0	24,333
Park/OS/Golf	408	0		0	0
<b>Total Units:</b>	<b>10,836</b>	<b>3,958</b>	<b>6,850,246</b>	<b>11,095</b>	<b>25,450</b>

**Acreage Statistics and Projected Buildout for May 2007  
Board of Commissioners' Conceptual Draft**

	Gross Acres	Max. Dwelling Units	Population Estimate
Residential, 1 unit per 5 ac.	10,836	2,167	6,074
Residential, 1 unit per 1 ac.	0	0	0
Residential, 2 unit per 1 ac.	0	0	0
<b>Total Units:</b>	<b>10,836</b>	<b>2,167</b>	6,074

**Acreage Statistics and Projected Buildout for Feb. 2007 Joint Staff Plan Draft**

	Gross Acres	Max. Dwelling Units	Nonresidential Building Floor Space (in Sq. Ft.)	Population Estimate	Employment Estimate (persons)
Residential, 1 unit per 10 ac.	2,357	236		661	
Residential, 1 unit per 5 ac.	3,958	792		2,218	
Residential, 1 unit per 1 ac.	2,716	2,716		7,611	
Residential, 2 unit per 1 ac.	1,746	3,492		9,788	
Mixed Use - Retail	15	0	117,612		294
Mixed Use - Office	15	0	114,345		435
Mixed Use - Med. Density Resid.	30	240		673	
<b>Total Units:</b>	<b>10,836</b>	<b>7,475</b>	<b>231,957</b>	20,951	729

Assumptions:

Avg. persons per single family dwelling:	2.86
Avg. occupancy rate for single family:	0.98

Avg. no. of employees per 1,000 sq. ft. office space:	3.80
Avg. no. of employees per 1,000 sq. ft. retail:	2.50

Sources: 2000 U.S. Census, ITE *Trip Generation Manual*, and ULI's *Dollars and Cents of Shopping Centers*.

Discussion follows:

- Ulma presented the regional zoning map and conceptual land use plan map. Staff will provide these maps electronically to the committee members for closer review.
- Portman asked if Chatham County is willing to apply the same standards all around the lake instead of the small portion of the watershed on which the committee is focusing. Lucier wants to go through a similar comparison process with Pittsboro. He stated the remaining land is county land.
- Kost stated much of Chatham County is zoned R-1, but in reality the use of the land with wells and septic systems will not support R-1; they have used the land itself as a zoning tool.
- Kost asked how we know the boundary of Jordan Lake and the normal mean pool elevation. Bailey stated it is 216 feet for this analysis. Lucier stated Chatham County has requested this information from the Army Corps of Engineers, but they have not yet received it.
- Lucier confirmed that he wants the joint plan to include an office/commercial area. He stated 1 unit per 10 acres is more protective for wildlife and lake runoff and will not result in as much land clearing.
- Kost wants to talk to Chatham County staff about the river corridor they have used elsewhere and the protection it affords.
- Horne asked about transportation configurations to provide an opportunity for people to live in the vicinity where they work. Ulma stated this will need to be considered during the transportation discussion.
- Ulma stated economic development professionals have not yet reviewed the draft plan with regard to the employment center.
- Kost expressed concern with the large office area at Lewter Shop Road and Highway 751; she thinks the intersection of NC 751 and Highway 64 is a better location; she understands it is outside this particular planning area.
- Sullivan stated the Highway 64 node is about 550 acres outside the critical area as compared to the 840 acres shown in blue on the draft plan. He stated Apex has a western area plan, and they are looking at mixed use south of Highway 64.
- Robinson asked the distance between major office parks in Cary. Ulma stated the MacGregor and Regency office parks are about one mile apart. Kost does not think this is a fair comparison because Chatham County will not have a comparable density. Robinson referenced the "Reality Check" exercise, which estimates one million additional people to this region.
- Portman stated individuals own the land, and zoning could infringe upon their rights to use their land as they choose. He asked the tradeoff between the private vs. public good. He stated this impacts Cary, because the council has always seen the southwest area as the low density transition to rural. If higher density occurs further west, then it is not logical to restrict the southwest area land use in that way. He understands Chatham County preferring the employment district around US 64.

- Lucier stated the primary goal is to protect Jordan Lake as a water supply, and next it is important to consider the public vs. private property interests. He thinks it is important to seek other opinions, especially those of property owners impacted by the joint plan.
- Kost stated community issues such as transportation, schools, etc. should also be considered along with the property rights issue.
- Robinson thinks it would be helpful to have people who deal with commercial and office development weigh in on the draft plan to give their opinion of the proposed employment area in the event there is also a 550-acre office/commercial development along Highway 64. Lucier agreed and added that the area along Highway 64 would be predominantly commercial with some office.
- Shivar stated Cary staff has a meeting scheduled in early July with economic development professionals and he will get their opinion and update the group at the next meeting.
- Kost stated her big question is the dark green area designated for residential development at 1 unit per 10 acres. She does not think the draft plan will allow a property owner to subdivide their land and give it to their children.
- Portman stated Chatham County's precedent in the watershed is to allow 1 to 5 acre lots, and he thinks it would be difficult to require 10 acre lots on this side of the lake.
- Lucier wants more information on the population estimate, which seems to add more than 1,700 people. Ulma stated the draft plan is a theoretical maximum based on the gross number of acres multiplied by the land use density. He stated this estimate does not account for roads, topography, etc. He stated the most likely scenario is 9,000 to 10,000 dwellings as a plan never achieves the maximum shown on a map.
- Portman suggested for the next meeting to presume to fill the light green sliver of 1 unit per 5 acres within the darker green (along Hollands Chapel Road) would be designated for the same use, and to review that impact. He also wants to consider the light blue area as residential and review the impact of that option. Lucier questions the size of the light blue area. Ulma stated he will provide an option that is ½ the size of what is currently shown with ½ of that as residential.
- Portman asked about considering the light blue area (office/employment) as only residential. Robinson suggested posing this question to the experts; Lucier agreed. Robinson suggested that staff prepare various scenarios based on this information.
- Kost wants to review the types of infrastructure needed to support the various scenarios.
- Robison wants to get feedback about the current property owners' plans and review it at the next meeting.
- Lucier stated Chatham County must consider the impact on schools, as 4,000 dwellings will generate about 1,500 students. Staff will bring this potential school impact information to the next meeting.
- Portman appreciates the dialogue and regional cooperation as the focus of this committee's work.
- Staff will generate alternative scenarios and get them to committee members in advance of the next meeting. Committee members will be prepared to provide their input on the revised draft plan prior to the next meeting.
- Kost wants to know what it means going from 10- to 5-acre lots.
- Robinson suggested that at the next meeting Chatham County officials share what they learned from their constituents and Cary officials/staff share the expert advice on the viability of an office park.



### **Cary's annexation moratorium in Chatham County**

Robison shared that the council adopted the following annexation moratorium resolution at the June 10, 2009 meeting:

#### **RESOLUTION ESTABLISHING THE CARY TOWN COUNCIL'S JUNE 2009 STAY ON CONSIDERATION OF VOLUNTARY ANNEXATION PETITIONS FOR PROPERTIES WITHIN CHATHAM COUNTY**

WHEREAS, at a joint work session held by the Cary Town Council and the Chatham County Board of Commissioners on May 13, 2009, the two boards agreed to appoint a subcommittee of Council members and Commissioners to study issues of common interest to the parties, including the Joint Land Use Plan first discussed in 2005; and,

WHEREAS, at the work session, the Chatham County Board requested that the Cary Town Council, to show good faith and cooperative spirit, adopt another Resolution evidencing the Council's intent not to consider voluntary annexation petitions in Chatham County for a specified period of time; and,

WHEREAS, the Cary Town Council, while seeking a fair, transparent, reasonable, and dependable climate in which landowners can reasonably plan for the future use of their property, is willing to agree to another stay on the consideration of voluntary annexation petitions in Chatham County.

NOW, THEREFORE, BE IT RESOLVED that, to the extent it can lawfully comply, the Cary Town Council will observe one additional stay on consideration of voluntary (citizen initiated) annexation petitions for lands within Chatham County until the earlier of (1) agreement by the Chatham County Board and Cary Town Council on a Joint Land Use Plan or (2) September 30, 2009., provided however voluntary annexation petitions to assist property owners with the failure of private utilities (wells and/or septic systems) are exempted from this stay and may be considered by Cary Town Council; and,

FURTHER, BE IT RESOLVED that the Cary Town Council does not intend to consider any further or additional stays or delays in consideration of voluntary annexation petitions beyond September 30, 2009.

ADOPTED by the Cary Town Council this 10<sup>th</sup> day of June, 2009.

### **Discussion of future joint meeting**

Lucier questioned the resolution expiring on September 30, since it may be some time in October before the joint meeting of the two elected bodies will occur due to vacation schedules. Robison thinks some Cary council members will not want to extend the annexation resolution moratorium to October. Staff will work on scheduling the joint meeting prior to September 21 and will get proposed dates to the elected officials as soon as possible.

### **Discussion of the current Cary annexation in Chatham County**

The Chatham County commissioners will discuss the Cary annexation in Chatham County at their July 20 meeting in order to provide comments to the Cary council.

### **Discussion of the Chatham County/Orange County joint planning task force**

Refer to information on this task force, which is attached to and incorporated herein as **Exhibit D**. This group's two highest priorities are transportation and joint planning. Horne will follow up to learn the meeting dates, and will share this information with Chatham County and Cary officials. Kost and Lucier will keep Cary apprised of any information of interest.

### **Discussion of Durham/Chapel Hill/Carrboro and Capital Area Metropolitan Planning Organizations**

Robison stated both metropolitan planning organizations (MPO) and their staffs are adequately coordinating and sharing information. She suggested that Chatham County and Cary staffs actively monitor the MPO agenda, and if there are topics of interest, then she suggested the appropriate staff member attend the meeting. She suggested that the committee take the time to make sure they have the agenda for the other MPO meeting and become familiar with the agenda and make recommendations to one another. She suggested this topic be left at this informal level as any voting questions would have to be addressed at a higher level and at a different time.

Lucier thinks the MPOs are working well together at this time, and they have enhanced their communication with one another. Kost stated both MPOs have integrated municipal and county long range plans into their planning processes. She stated stimulus funds will be an issue for both MPOs.

### **Topics and details for next meeting**

- Review of revised comparison chart of environmental regulations
- Updated land use plan scenarios and supporting data

At Mrs. Robinson's request the group agreed to change the date of the next meeting to July 14, 2009 at 9 a.m. Kost proposed to have the next two meetings at the Jordan Lake Management area (state park), and she will confirm the details via e-mail.

The co-chairs adjourned the meeting at 11 a.m.