



Chatham County Planning Board Agenda Notes

Date: February 6, 2018

Agenda Item: VIII-1 Attachment #: 14

- Subdivision**
 Conditional Use Permit
 Rezoning Request
 Other:

Subject:	Request by Warren Mitchell, P. E. on behalf of Jones Ferry Properties, LLC for subdivision First Plat review of Morgan Ridge Subdivision , consisting of 16 lots on 52.20 acres, located off Jones Ferry Road, SR-1942 (entrance in Orange County), parcel #1443.
Action Requested:	See Recommendation
Attachments:	<ol style="list-style-type: none"> 1. Major Subdivision First Plat Application and checklist 2. Cover letter prepared by Warren D. Mitchell, P. E., dated December 21, 2017 3. Vicinity map 4. Map showing driveway location in Orange County 5. Report from the Chatham County Historical Association 6. Notification to Chatham County Schools 7. Copy of Environmental Documentation Submittal 8. Letter from North Carolina Department of Natural and Cultural Resources, Natural Heritage Program, dated December 5, 2017 9. Community Meeting Report Form dated January 12, 2017 10. Comments regarding the First Plat from the Technical Review Committee meeting, dated January 24, 2018 11. Detailed Soil Scientist Report, Soils Map, and approval from Thomas Boyce, Chatham County Environmental Health, R. E. H. L., L. S. S. 12. Road name approval from Chatham County Emergency Operations Office 13. Riparian Buffer Report, dated August 11, 2016 14. Corp of Engineers Jurisdictional Determination map dated 6/22/16, and letter from Drew Blake, Chatham

	<p>County Environmental Quality Inspector, dated December 22, 2017.</p> <p>15. First Plat titled 'Morgan Ridge', prepared by Warren D. Mitchell, P.E., dated 12/22/17</p>
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Introduction & Background:

Zoning: R-1

Water System: Private on-site individual wells

Sewer System: Private on-site and off-site septic and repair areas.

Subject to 100 year flood: No floodable area

General Information: The subdivision process is a four (4) step process: Concept Plan, First Plat, Construction Plan, and Final Plat. The applicant has completed the community meeting and the Concept Plan review. The minimum lot size requirement for the project is 1.50 acres of useable area. The Planning Board has two (2) meetings in which to act on the proposal.

Discussion & Analysis: The request is for First Plat review and recommendation of Morgan Ridge Subdivision, consisting of 16 lots on 52.20 acres, located off Jones Ferry Road, S. R. 1942. The entrance to the subdivision will be located in Orange County and is discussed later in the agenda notes. A vicinity map showing the property location, attachment # 3, is included in the agenda packet. 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) meeting to act on the proposal. The applicant has provided a cover letter, attachment # 2, with details of the project.

Roadways: The road is to be built as a 50 foot wide public right-of-way, with a 20 foot wide travelway, will be approximately 2500 feet in length, and is to be a state maintained road. The entrance to the property will be located in Orange County (see attachment # 4). The location and acceptance of public right-of-way for the entrance is required to be reviewed by the Orange County Planning Board and approved by the Orange County Board of Commissioners. The applicant has submitted the required information to Orange County to begin the process for review and approval. The portion of the property located in Orange County is in Division 7 of the North Carolina Department of Transportation and the portion of property in Chatham is in Division 8 of the NCDOT. Per Justin Richardson, Assistant District Supervisor, Division 8-District 1, all of the roadway permitting will be reviewed and approved by the Division 8 Office in Asheboro and the entrance location onto Jones Ferry Road appears to be acceptable. A fifty foot wide right-of-way for possible future road extension is shown between Lots 11 and 12 to the adjacent property. This will be a dedication of right-of-way and will not be constructed by the developer of Morgan Ridge.

Historical: The applicant met on-site with Bev Wiggins, Chatham County Historical Association. Ms. Wiggins toured the property and was shown an old home place and several out buildings located on the property. The attached report includes pictures of the old structures. Per the applicant/developer, the structures will be removed and family members may have interest in repurposing some of the materials on their private properties. Per Ms. Wiggins report, attachment # 5, the property was owned by the Morgan families and the grave of William Morgan is believed to be on the property to the east of the subject property. The applicant has stated that no cemeteries/graves have been discovered on the subject property. Ms. Wiggins noted that there were several large trees located on the property and recommended saving them if possible. Mr. Mitchell contacted Grand Trees of Chatham regarding a large pine tree on the property. The organization measured the tree and said that the pine tree is not a champion tree but it is noteworthy. Mr. Mitched stated that there were no plans to remove the tree by the developer.

Schools: Notification of the proposed development was provided to the Chatham County School System. See attachment # 6.

General Environmental Documentation: The developer submitted the General Environmental Documentation and a letter, dated December 5, 2017 from North Carolina Department Environmental Quality Natural Heritage Program to Chatham County Land & Water Resources Division for review. See attachments 7 & 8. The letter states "A query of the NCNHP database, based on the project area mapped with your request, indicates that there are no records for rare species, important natural communities, natural areas, or conservation/managed areas with the proposed project boundary. Please note that although there may be no documentation of natural heritage elements within the project boundary, it does not imply or confirm their absence; the area may not have been surveyed. The results of this query should not be substituted for field surveys where suitable habitat exists." Rachael Thorn, Environmental Quality Supervisor, reviewed and approved the information submitted.

Community Meeting: A community meeting was held on January 10, 2017 at Opus Financial Advisors, 4421 Mann's Chapel Road. Three people attended the meeting. Items/issues discussed were notification of target shooting on the adjacent property owned by George Barrett, question regarding whether the project included any commercial zoning, and during large rain events, the water in the creek will back up and there is evidence on the property and downstream of old beaver dams. The applicant thanked the residents and duly noted that the owner of the adjacent property, Mr. Barrett, did practice target shooting on his property and would continue to do so; that the development project was residential only; and noted evidence of old beaver dams on the property. See attachment # 9. The adjacent property owned by Mr. Barrett and others is residential and has a non-conforming use that allows events to be held on the property several times a year along with a conditional use permit for a welding shop.

Technical Review Committee: The TRC met on January 24th to review the First Plat submittal. The applicant/developer was present. Items of discussion included that Chief John Strowd, North Chatham Fire Department, had met on-site with the developer and determined that the pond size and depth would make it unsuitable for a water point; that the Corps of Engineers had completed the on-site jurisdictional determination and made a determination that the existing pond was non-jurisdictional; that the applicant will meet with Environmental Quality staff to discuss buffer authorization requirements; that the interconnecting roadway to the adjacent property was not to be constructed at this time, but shown only as a right-of-way dedication; that stream buffers, but not the feature, had been counted in useable lot area; that NCDOT District 8 will review the road plans and construction of the road; that the applicant had submitted the required information to Orange County to begin the process for approval of the entrance.

Septic: A soils report and map, attachment 11, was submitted to Thomas Boyce, Chatham County Environmental Health, R.E.H.L., L.S.S. for review. Mr. Boyce stated that the report and map were adequate for a First Plat review. Several of the lots will have off-site septic and repair areas which will be considered a non-contiguous part of the lot. See attachment # 11.

Water: County water is not available. Each lot will have an individual well.

Road Name: The road name Morgan Ridge Way has been approved by Chatham County Emergency Operations Office as acceptable for submittal to the Board of Commissioners for approval.

Water Features: A riparian buffer report, dated 8/9/16, for parcel #1443 was prepared and submitted by David Gainey, Soil Scientist with Soil and Environmental Consultants, PA, along with a riparian buffer map, dated 6/22/16 to Drew Blake, Chatham County Environmental Quality Inspector for review. See attachment # 13. Mr. Blake and Mr. Gainey completed an on-site riparian buffer review on December 9, 2016 to verify the consultant's findings. Mr. Blake issued a confirmation letter of his findings dated December 12, 2016.

On December 20, 2017, Mr. Blake was provided a copy of the Approved Jurisdictional Determination dated July 21, 2017. Stream F, shown on the buffer map dated 6/22/16, as an ephemeral, was upgraded to an intermittent by the approved JD. Based on that information Mr. Blake revised his original confirmation letter and reissued the letter on December 22, 2017. The December 22, 2017 letter states that there are five (5) intermittent streams, one (1) perennial stream, and ten (10) wetlands. See attachment #14. Buffer authorizations and 404/401 permits will be obtained prior to Construction Plan submittal. The First Plat shows slight encroachments of the septic areas into the stream buffers on Lots 5 and 7. The developer has stated that the encroachments will be removed and that soils map provided to Chatham County does not show the encroachments.

Stormwater and Erosion Control: Two stormwater ponds are proposed and will be placed on private lots. A stormwater Permit and an Erosion Control Permit will be obtained from Chatham County Environmental Quality prior to Construction Plan submittal. No work can commence on the property prior to obtaining Construction Plan approval. Chatham County Environmental Quality will issue the stormwater and erosion control permits for the entire project including the property within Orange County.

Site Visit: Planning Department staff and various Board members attended a site visit on January 29 and 31, 2018. Warren Mitchell, P.E. was present to walk the property with staff and Board members and discuss the project. Areas of the property viewed were the intermittent and perennial streams, center line of the proposed road alignment, existing pond, and old house and outbuildings. Area on the opposite side of the streams was not accessible due to amount of water in the streams due recent rain. Pictures of the site visit can be viewed on the Planning Department webpage at www.chathamnc.org/planning, Rezoning and Subdivision Cases, 2018.

Plan Chatham Evaluation:

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 property is located in an area of the county identified as Conservation on the Future Land Use and Conservation Plan Map. The description for Conservation includes development that is primarily residential, is sensitively integrated into the landscape with overall low density, and encourages conservation subdivisions to protect natural resources while not disturbing agricultural practices. Although the proposed subdivision is not a conservation design it meets the adopted riparian buffer and stormwater control standards of the county, minimizes creek crossings, and has an average lot size of 3 acres. 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 none were identified in their records. Additionally, Grand Trees of Chatham was contacted to evaluate a large pine tree on the property and representatives from that organization determined it did not qualify as a champion tree, but is noteworthy. The cover letter indicates this tree will not be removed as part of the road or utility construction. 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.

The Planning Board met on February 6, 2018 to review the request. Warren Mitchell, P. E. and Wesley Lloyd were present to answer questions. Also present were several adjacent property owners. The staff report was given and then a Public Hearing was held as required in the Subdivision Regulations, Section 5.2C(4). Warren Mitchell and Wesley Lloyd signed up to speak.

Mr. Mitchell addressed the Board and stated that the land had belonged to Mr. Lloyd's great Aunt and when she passed away, they purchased the property; that a minor subdivision had been completed in Orange County on a portion of the property adjacent

to Morgan Ridge creating 5 lots called 'The Enclave'. The road serving those 5 lots is Kieran Lane. A second minor subdivision across Jones Ferry Road from proposed Morgan Ridge created 2 lots from one parcel in Orange County. This second minor subdivision was created simultaneously with the 5 lot Enclave subdivision; that a mail kiosk will be placed on common land to be owned by the homeowners association; that approximately 1/3 of the property was in stream buffers; that stream crossings will be designed with as small an impact to the stream as possible; that there were three (3) buffer crossings proposed; that he had met with Rachael Thorn and staff to discuss the necessary steps to obtain the buffer authorizations; that the pond would be drained for safety and liability reasons; that the entrance to the development was in Orange County because that was the safest location on Jones Ferry Road located midway between 2 curves; that a stub-out had been provided to a landlocked property to the south; and that there were nine (9) on-site septic systems and seven (7) off-site septic systems. The Public Hearing was closed. There were several issues/questions discussed by the Board as follows:

*How many lots total will be developed out of the original tract? *Mr. Mitchell stated that there will be 23 total counting the minor subdivision in Orange County.*

*How will the off-site septic area for Lot 7 be accessed? *Mr. Mitchell stated that the access will be across the stream and wetland area.*

*Can Lot 5 accommodate the septic area for Lot 6? *Mr. Mitchell stated that with the stormwater pond being located on Lot 5, there was not sufficient room for an additional off-site septic system.*

*Will pumps be necessary to reach off-site septic systems? *Yes, per Mr. Mitchell*

*Distance of off-site septic systems and long term maintenance. *Mr. Lloyd stated that pump systems are required to be inspected every 5 years by Chatham County Environmental Health.*

*Will one septic contractor install all of the off-site septic lines? *Per Mr. Lloyd that has not yet been determined. Mr. Mitchell stated that if there are separate utility easement for each septic line, that there would be more clearing required, but each line would have its own dedicated easement and it would be easier for a homeowner to identify which easement is theirs in case that is a problem in the future, that if separate utility easements are used, each property owner/builder will be responsible for installation of the septic line versus if there is only one utility easement for multiple lines, then one contractor is required by Environmental Health to install the lines and meet other requirements.*

*Is there a requirement for disclosure to a property owner that the lot has an off-site septic system?

* Are septic easements recorded at Register of Deeds Office? *Staff discussed this with Kim Warren, Chatham County Environmental Health Program Supervisor. Ms. Warren*

stated that off-site non-contiguous septic areas and off-site septic easements are shown on a final plat by metes and bounds and recorded at the ROD office. No other documentation is required by Environmental Health.

**What is rational for draining and filling in the pond? Per Mr. Mitchell, the pond will be very close to the proposed homes on lots 3 and 4. This will create a liability for anyone with children and would likely prevent anybody with children from buying one of those lots. Also, children living in houses nearby will be curious and would likely explore the pond. So it could still create a liability for the owners on lots 3 and 4 even if they do not have children. The safest solution is to fill in the pond.*

**What happens to water if pond filled in? Per Mr. Mitchell, Wesley Lloyd is one of the developers and will be the contractor who builds the subdivision. He has experience filling in pond and the process is very simple. He will pump the water out of the pond into the adjacent stream. He will fill in the pond and grade a slope inside the pond to allow any surface water to drain to the intermittent stream. This procedure will have a detailed sequence which becomes a component of the erosion control plan that the Chatham County Environmental Quality Department must approve.*

**Is pond considered a wetland after pond is drained? Per Mr. Mitchell, no. The pond is drained and immediately filled in. There is no period of time between these actions that would allow the pond to be considered a wetland.*

**Is it possible to use the pond as a stormwater pond? Per Mr. Mitchell, the proposed road is on the east side of the ridgeline. The existing pond lies on the west side of the ridgeline. The stormwater from the road cannot drain to the existing pond.*

**What happens when the pond is drained to the small portion located within the riparian buffer? Per Mr. Mitchell, none of the trees will be removed along that edge of the pond. If any of the existing pond is currently in the buffer, then trees will be allowed to grow back in the stream buffer.*

**Where will pond drain? Per Mr. Mitchell, the pond will drain into the intermittent stream adjacent to the pond.*

**Can stormwater feature on Lot 5 be relocated in order to allow Lot 5 to have an off-site septic area for Lot 6?*

**Can trees be planted along the common boundary of proposed Lot 7 and the James Baca property in Orange County? Per Mr. Mitchell, the developer agrees to plant trees along this property boundary in the clearing. Pine trees will create a visual buffer quickly and blend with the pine trees that grow naturally.*

**George Barrett, an adjoining property owner expressed concerns regarding trespass onto his property and asked if the 1700 foot common boundary of his property and the subject property would be clearly surveyed and marked? Per Mr. Mitchell, the developer*

agrees to mark the common property boundary with George Barrett (Story Book Farm) when the lots are surveyed. This will be done before home construction.

**Can signage be installed along the common boundary? Per Mr. Mitchell, the developer will install no less than 10 signs noting private property.*

**Is there a responsibility by the builders or realtors to disclose to potential buyers that Mr. Barrett's property has special events, a welding shop, and that Mr. Barrett target shoots on his property? Per Mr. Mitchell, no.*

**Where are the beaver dams? Per Mr. Mitchell, there are signs of old beaver dams on George Barrett's property and the Morgan Ridge property near the common boundary.*

**Per the Comprehensive Plan, the property is located in a Conservation Area that encourages farm land to be preserved? What would have made the property more desirable to be used as farm land instead of residential development? Per Mr. Mitchell, the developers are in the business of subdividing property and there is demand in this area for single family lots. The original family also mentioned the hardpan soil in this area is not suitable for growing crops.*

**Concern by an adjacent property owner, Tanith Kirkley, regarding the 5 off-site septic areas along the common border with her property. Ms. Kirkley explained that their existing septic is old and there is a concern that it may need to be replaced and possibly a new well would need to be drilled near the common boundary where the 5 off-site septic areas are proposed and that with the distance requirement that a well cannot be within 100 feet of a septic or repair area, she is concerned that she will not have a location on her property to locate another well. Per Mr. Mitchell, The developers discussed the issue with Tanith and Robert Kirkley after the Planning Board meeting and made plans to meet at the Kirkley's house. Tanith later emailed a letter from a licensed soil scientist Jeff Vaughan at Agri-Waste Technology, Inc. dated March 31, 2015. Warren Mitchell and Wesley Lloyd met with Robert Kirkley at their home located at 4020 Jones Ferry Road on Wednesday 2/14/18. Robert showed Warren and Wesley the location of the septic tank, drainfield and the well location. We noticed that the existing septic field showed no signs of failure. It appears to be working correctly at this time. The Kirkleys are concerned about their options when and if the septic field fails in the future. The letter from Jeff Vaughan states that the only repair septic system suitable for this lot is a surface wastewater discharge system. Mr. Mitchell has designed several of these systems and Mr. Lloyd has installed many of these systems. The system will treat the wastewater first with the septic tank and next with a sand filter or proprietary system like the Advantex by Orenco Systems. This system would be installed next to their existing septic system and the treated wastewater would discharge into the small creek behind their house. Their existing well would remain where it is in the northeast corner of their property. There are infinite possibilities for another well location on their property but the system proposed by Mr. Vaughan doesn't require the well to be relocated or abandoned. Their well is approximately 75 feet from our common property line where we show the proposed septic systems for lots 1,2,3,4 and 6. This distance is adequate as the minimum distance to an existing well is 50 feet. We prepared a sketch of the system that Mr. Vaughan proposed for the Kirkley's septic system repair.*

*Development is located in an area designated as a Conservation Area in the newly adopted Comprehensive Plan. Did the developer consider doing a Conservation Subdivision which is encouraged in a Conservation Area? A Board member noted that there are limitations on a Conservation Subdivision when wells and septic systems are required.

*Concern that Meadow Branch drains to Terrell's Creek which drains to the Haw River and there is a rare species in the river and this is a sensitive watershed. Acknowledged

*Show wetland designated as W-2 on S&EC delineation map on Construction and Final plats. Acknowledged

*Can road be realigned to avoid the crossing of the intermittent stream?

*A Conservation Subdivision would have much more open space and the stream buffers could possibly be located within the open or natural space instead of being located on individual lots.

*Are riparian buffers clearly marked so that installation of septic systems does not encroach? Per Mr. Mitchell, the riparian buffers will be clearly marked and orange tree fencing will be installed along the boundary to protect the buffer.

*How will roadway crossing of streams be handled? Will any wetlands be impacted by road crossings? Per Mr. Mitchell, the stream crossings will use culverts with headwalls to reduce the stream impact. In certain locations like the perennial stream crossing over the wetlands, the developer will use retaining walls to limit the disturbance of the wetland and the riparian buffer.

*Show sight triangles on Construction Plan and Final Plat on Lots 11 & 12 for future road extension. Acknowledged

*Verify with NCDOT that the type of stream crossings, using head walls, proposed by the developer is acceptable and if so, provide staff with verification. Acknowledged.

*Stormwater ponds need to comply with Chatham County Stormwater Ordinance requirements. *Acknowledged*

*Can number of septic utility easements be minimized?

After the Board discussion, the Planning Board tabled the request until the March 6th meeting to allow the developer time to meet with the Kirkley's to discuss their concerns regarding the possibility that the Kirkleys may have to relocate their well in the future if their existing septic system fails and has to be relocated. The Kirkleys are concerned that if they have to relocate their well, that the location of the 5 off-site septic systems on the Morgan Ridge property would not allow them to locate the well within 100 feet of their

back property line. Staff asked Kim Warren, Chatham County Supervisor for Wells/Septics, what is the minimum distance allowed between a well and a septic system/repair area. Ms. Warren stated that 100 feet is the requirement, but Environmental Health rules state that if there are fixed lot conditions that don't allow a 100 foot separation, that a reduction down to 50 feet is allowed. Mr. Mitchell and Mr. Lloyd met with Mr. and Mrs. Kirkley at their home on February 14, 2018. See the response above from Mr. Mitchell.

Recommendation: The Planning Department recommends granting approval of the road name 'Morgan Ridge Way' and granting approval of subdivision First Plat for **Morgan Ridge Subdivision** with the following conditions:

1. The developer must obtain subdivision Concept and Preliminary Plan approval from Orange County prior to submittal of the Construction Plan to Chatham County.
2. All septic area encroachments shown within riparian buffer areas shall be removed.
3. Stormwater features shall meet all Chatham County Stormwater Ordinance requirements.