

MINUTES
CHATHAM COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING
MARCH 20, 2006

The Board of Commissioners (“the Board”) of the County of Chatham, North Carolina, met in the District Courtroom, 12 East Street, located in Pittsboro, North Carolina, at 6:00 PM on March 20, 2006.

Present: Chairman Bunkey Morgan; Vice Chair, Tommy Emerson; Commissioners Patrick Barnes, Mike Cross, and Carl Outz; County Manager, Charlie Horne; County Attorney, Robert L. Gunn; Assistant County Manager, Renee Dickson; Finance Officer, Vicki McConnell; and Clerk to the Board, Sandra B. Sublett

The meeting was called to order by the Chairman at 6:06 PM.

PLEDGE OF ALLEGIANCE AND INVOCATION

Chairman Morgan invited everyone present to stand and recite the Pledge of Allegiance after which Commissioner Emerson delivered the invocation.

AGENDA AND CONSENT AGENDA

The Chairman asked if there were additions, deletions, or corrections to the Agenda and Consent Agenda.

Chairman Morgan asked that Item #21, Recreation Advisory Board appointment be deferred until a later date.

Commissioner Outz moved, seconded by Commissioner Emerson, to approve the Agenda and Consent Agenda with the noted request as follows:

CONSENT AGENDA

1. **Minutes:** Consideration of a request for approval of Board Minutes for regular meeting held March 06, 2006, work session held March 06, 2006, and amended January 17, 2006 minutes

The motion carried five (5) to zero (0).

2. **Road Name:** Consideration of a request from citizens to approve the naming of private roads in Chatham County as follows:

A. Zacks Way

The motion carried five (5) to zero (0).

3. **Tax Releases and Refunds:** Consideration of a request for approval of tax releases and refunds, attached hereto and by reference made a part hereof.

The motion carried five (5) to zero (0).

4. **Release Interest Penalty:** Consideration of a request to deny the release of interest penalty and uphold the penalty imposed by General Statute 10-360 for Chuck and Luceil Friedman in the amount of \$10.89

The motion carried five (5) to zero (0).

5. **Funds Acceptance from March of Dimes:** Consideration of a request to accept funds in the amount of \$23,472 awarded to the Chatham County Health Department from the March of Dimes to continue the Chatham Healthy Mothers, Healthy Babies Coalition and related activities

The motion carried five (5) to zero (0).

6. **Funds Acceptance from Office of Minority Health and Health Disparities and Approval of New Interpreter Position:** Consideration of a request to accept funds in the amount of \$20,000 awarded to the Health Department from the Office of Minority Health and Health Disparities; and Consideration of a request to approve a new FTE Interpreter position

The motion carried five (5) to zero (0).

7. **Funds Acceptance from NC Division of Public Health:** Consideration of a request to accept funds in the amount of \$6,193 in Family Planning Funds awarded to the Health Department from the NC Division of Public Health

The motion carried five (5) to zero (0).

8. **Funds Acceptance for Health Department's Environmental Health Division:** Consideration of a request to accept funds in the amount of \$5,984.39 awarded to the Health Department's Environmental Health Division

The motion carried five (5) to zero (0).

9. **Resolution for Addition of Roads to the North Carolina System of Secondary Roads:** Consideration of a request to approve a **Resolution #2006-09 for the Addition of Streets or Roads to the North Carolina System of Secondary Roads – Bradford Place in the Fearington Subdivision**, attached hereto and by reference made a part hereof.

The motion carried five (5) to zero (0).

10. **Final Plat Approval of "Cattail Creek, Phase 3":** Consideration of a request by James P. Kiernan for subdivision final plat approval of "**Cattail Creek, Phase 3**", consisting of six (6) lots on approximately 16 acres, located off SR #1506, White Smith Road, Hadley Township

As per the Planning department and Planning Board recommendation, final approval of "**Cattail Creek, Phase 3**" was approved with the following condition:

1. Prior to recordation of the plat the following information shall be added:
 - * Site triangles at the intersection of Rebecca Land and Isabel Court and Olivia Lane
 - * Flood map panel #37100970400J, draft, dated July 13, 2005 to Flood Statement.
 - * Change Roadway Maintenance Statement to read "The 60 foot public roadway right-of-way shown hereon shall be maintained by

the Cattail Creek Developers or the Homeowners Association until such time that it is approved and accepted by the North Carolina Department of Transportation at such time becoming a public right-of-way”.

The motion carried five (5) to zero (0).

11. **Final Plat Approval of “Henry’s Ridge Subdivision, Lots #6-40”:** Consideration of a request by Ricky Spoon for final plat approval of **“Henry’s Ridge Subdivision, Lots #6–40”**, consisting of thirty-five (35) lots on approximately 90 acres, located off SR #1822, Henry Webster Road, New Hope Township

As per the Planning Department and Planning Board recommendation, final plat approval of **“Henry’s Ridge”** with the following condition:

1. Prior to recordation of the plat, a sufficient amount of gravel shall be placed on the roadway to provide for public health and safety. Staff shall verify the safety of the roadway prior to recordation of the final plat.

The motion carried five (5) to zero (0).

12. **Sketch Design Approval of “Cooper Subdivision”:** Consideration of a request by Dan Sullivan for sketch design approval of **“Cooper Subdivision”**, consisting of twenty-four (24) lots on approximately 130 acres, located off SR #1714, Hatley Road, New Hope Township

As per the Planning Department and Planning Board recommendation, sketch design was approved with the following conditions:

1. The preliminary and final plats shall include a 50-foot wide dedication of public right-of-way to the properties of Phillip Corn, parcel 17417 and Michael Davidson, parcel #17288.
2. Twenty foot wide temporary construction easements shall be shown on each side of the dedications of public right-of-way to Corn and Davidson property.
3. A temporary turnaround meeting the size requirement as specified in the Subdivision Regulations for cul-de-sac shall be provided at the end of the stub-out to the Chatham Land and Timber Management, LLC property and be built, at a minimum, to an all-weather travel way surface.
4. A sign shall be placed at each stub-out location stating that it is the location of a possible future roadway.
5. The developer shall provide utility easements as required by Chatham County Public Works along each stub-out to adjacent properties.
6. The developer shall continue the pavement of SR #1714 to the end of state maintenance.

The motion carried five (5) to zero (0).

13. **Preliminary and Final Plat Approval of “Chapel Ridge, Phase 2B”:** Consideration of a request by Jordan Lake Preserve Corporation for preliminary and final plat approval of **“Chapel Ridge Phase 2B, Sections M, O, Q, R and a portion of N”**, consisting of 166 lots on approximately 792 acres, off SR #1520, Old Graham Road, Center and Hadley Townships

As per the Planning Department and Planning Board recommendation, approval of the

road names, “Appleblossom Court”, “Lookout Ridge”, “Rosewood Court”, “Deep Creek”, “Larkspur Court”, and “Colonial Trail Court” and preliminary and final approval of **Chapel Ridge, Phase 2B, Sections “M”, “O”, “Q”, “R”, and a portion of “N”**, we granted with the following conditions:

1. The public roadway to NC #87 shall be constructed to the NCDOT standards prior to issuance of 50 building permits in the Chapel Ridge subdivision.
2. Flood elevations shall be shown on the recorded plat for all lots subject to the 100-year flood plain. Elevations shall also be marked on the ground for said lots prior to the issuance of a building permit.

The motion carried five (5) to zero (0).

14. **Child Fatality Prevention Team:** Consideration of a request to appoint Tom Bender, Chatham County Fire Marshall, PO Box 87, Pittsboro, NC, to the Child Fatality Prevention Team

The motion carried five (5) to zero (0).

END OF CONSENT AGENDA

PUBLIC INPUT SESSION

Nick Meyer, 488 Boothe Hill Road, Chapel Hill, NC, stated that part of the order of the election voting machines includes modem communications; that there are security issues with this; that there also is an order for communications software and installation; that he does not understand the reason for a letter of commendation from Chairman Morgan when the County is shutting down precincts and spending more money than other counties.

Jeffrey Starkweather, 590 Old Goldston Road, Pittsboro, NC, stated that he wanted to address quasi-judicial hearings; that the rule includes interested parties; that it is actually the citizens that are the interested parties; that the Board of Commissioners has the choice to receive public input or not at evidentiary hearings; that the fundamental tenet of democracy is listening to the citizenry; that the Board of Commissioners wants the most information about issues; that the ordinance addresses public convenience or welfare; that the only way to assess this is to get public input; that the risk of a lawsuit should not be a deterrent since many other decisions have been made without regard to this; and that most conditional use permits come with a rezoning.

Greg Solomon, 406 Buck Branch Road, Pittsboro, NC, stated that the County is behind in building schools; that the student generation rates are about what was expected; that 4,900 students came from this recent development; that he questioned when the County is going to catch up; that construction is going through the roof; that development doesn't pay for itself; and that today is the day that developments should stop being approved.

PLANNING AND ZONING

Conditional Use B-1 Business District: Consideration of a request by William R. Copeland for a Conditional Use B-1 Business District with a Conditional Use Permit for eating and drinking establishments, on 5.6 acres, located at the northwest quadrant of the intersection of US Highway #64 and Big Woods Road and New Hope Township

Commissioner Emerson moved, seconded by Commissioner Outz, to adopt **An Ordinance Amending the Zoning Ordinance of Chatham County**, attached hereto and by reference made a part hereof. The motion carried three (3) to two (2) with Commissioners Cross and Barnes opposing.

Commissioner Emerson moved, seconded by Commissioner Outz, to adopt **Resolution #2006-10 Approving An Application for a Conditional Use Permit Requested by William R. Copeland**, attached hereto and by reference made a part hereof. The motion carried four (4) to one (1) with Commissioner Barnes opposing.

Revision to Existing Sketch Design for “Meadowview Planned Unit Development”: Consideration of a request by The Parks at Meadowview, LLC for a revision to the existing sketch design for **“Meadowview Planned Unit Development”** to reduce the number of lots from 715 to 600, to have all roadways be private, to redesign the lot layout, and to change the name to The Parks at Meadowview, located off SR #1520, Old Graham Road, Center and Hadley Townships

Mark Ashness, with the CE Group, stated that this was the same condition that Chapel Ridge was under; that the materials must be reviewed by Chatham County Water Department and the same criteria must be met that Chapel Ridge has; that the specifications are slightly different from the County’s specifications; that anything twelve inches and larger is ductile iron pipe; that anything below twelve inches C900 Class 200 PVC which is similar to what is being put in all of the water districts; that is what was agreed to in Chapel Ridge; and that they are certainly willing to meet that standard. He stated that when they do water systems in the County’s jurisdictions, they use DIP, everywhere, ductile iron pipe; that in this particular instance they are using C900 Class 200, which is the thickest PVC pipe for lines 4”, 6”, and 8” in size; that once they get above that line size, they use DIP which is the same thing that the County is using for its big transmission mains; that he knows that the PVC the County is using is what is being used in the County’s water districts; that they are holding the same criteria that was approved for Chapel Ridge when they had at least three phases of that project approved; and that it would be that same criteria.

The County Manager stated that Mr. Ashness said that the County policy permits use of C900 plastic in some instances, which is true, but only in the approved County water districts. He further stated for financial reasons, that was required as part of USDA funding.

As per the Planning Department and Planning Board recommendation, Commissioner Emerson moved, seconded by Commissioner Cross, to approve the request for a revision to the existing sketch design for the Meadowview Planned Unit Development to reduce the number of lots from 715 to 600, to have all roadways be private, to redesign the lot layout, and to change the name to **“The Parks at Meadowview”** and that the conditions as required previously be met as follows:

1. Prior to submittal of the preliminary plat for review, the feasibility of access to the properties of Alston, Harris, Holt and Lutterloh shall be evaluated.
2. due to the possibility that Chatham County may add this subdivision to its distribution system, the development must exceed Heater Utilities specifications and meet Chatham County’s specifications as required in Chapel Ridge regarding the materials used in water main materials and installation.
3. Detailed storm water plans shall be provided and approved by the County prior to preliminary approval.
4. Any required environmental monitoring reports shall be provided to the local County offices of the Health Department.

The motion carried five (5) to zero (0).

Public Hearings:

(The following is a legislative hearing and any person can present information or opinions.)

Conditional Use B-1 Business District: Public hearing to receive public comments on a request by John W. Blair for a Conditional Use B-1 Business District on 10.613 acres, located at the southeast

intersection of SR #1700, Mt. Gilead Road, and SR #1714, Hatley Road, New Hope Township

Vance Reece, 10C Twin Lakes Drive, Jordan Woods, Pittsboro, NC, stated that he represents the area residents for the change in zoning status from residential R-40 to B-1 Conditional Use District for property located at the intersection of Mt. Gilead Church Road and Hatley Road; that while they don't believe it is necessary for them to deal with all of the applicant's findings statements in order to demonstrate the weakness of the application or the soundness of their opposition, they do consider it necessary to highlight statements by the applicant that they believe do not satisfy the requirements and in some instances are at variance with the facts; that in Finding #1, the use requests is among those listed as an eligible conditional use in the district in which the subject property is located or is to be located; that the use proposed by the applicant is not on a list of appropriate uses for Residential-Agricultural areas; that it would be on an approved list if and only if approval is first granted for the zoning change from R-40 Residential – Agricultural district to a B-1 Conditional Use Business district; that the applicant's response to this requirement is then nothing more than a statement that says "if the rezoning is approved, then it's an eligible use"; that in Finding #2, the requested Conditional Use permit is either essential or desirable for the public convenience or welfare; that to establish need under this category, statements from the "owners of three retail stores in the Jordan Lake area..." Are cited, along with the applicant's statement, as the entire data base for drawing the conclusion, "...that there is a large, unmet demand for storage space for boats, recreational vehicles and self-storage near Jordan Lake..."; that two of these owners' businesses are located east of Jordan Lake, several miles from the area that would be affected by the proposed facility; that to suggest that this kind of information warrants the conclusion put forward in the application seem far-fetched and certainly not within the acceptable bounds of fact-based decision making; that the applicant also cites "...an ongoing Department of Transportation study..." concerning the US #64 corridor as a factor in the County's "discouraging commercial...development directly on US Highway #64..." and "...encouraging development at existing crossroads..."; that there's no hard data given, not even a name or a stated purpose of the study; that they would assume that since it is an ongoing study, no final conclusions have been drawn and its relevance to the application presented would be highly problematic; that in short, this statement in the application presents no evidence whatsoever that would support the appropriateness of the proposal; that while the plan calls for encouragement of cross-roads commercial centers to serve surrounding rural areas, it goes on to say they should be designed, built, and operated primarily to accommodate the needs of the residents of the surrounding area; that building a facility where visitors can park their boats and other recreational vehicles hardly seems to be directed toward achieving this desired outcome; that the project is neither essential nor desirable and is not consistent with the objectives of the land Use Plan; that in Finding #3, the requested permit will not impair the integrity or character of the surrounding or adjoining districts and will not be detrimental to the health, safety, or welfare of the community; that when Chatham County's land use Plan discusses development in rural areas, it is consistently noted that commercial development should occur in "designated cross-road commercial center locations to serve the needs of the surrounding rural areas; that it is also the case that in the listings of allowable uses in the various defined districts in the Chatham County Zoning Ordinance this type of facility if not listed as appropriate for Agricultural/Rural area, not even under a conditional use provision; and that in Finding #4, the requested permit will be consistent with the objectives of the Land Use Plan.

Daniel Jenkins, 124 Country Rock Road, Pittsboro, NC, stated that this will create a danger with people that are not familiar with the roadways; and that he would like them to consider these points as well.

Lindsay Hodges, 3 Jordan Drive, Pittsboro, NC, stated that he is representing a number of friends and neighbors; that it would be totally inconsistent with the Land Use Plan; and that he has signatures to discourage this proposal. He read the petition from citizens opposed to rezoning the property, and stated that he is opposed to it because it does not fit the Land Use Plan. The petitions are attached hereto and by reference made a part hereof.

Patrick Bradshaw, 128 Hillsboro Street, PO Box 602, Pittsboro, NC, stated that he was present to represent John Blair in his application for rezoning of the property; that the request is consistent with the

policies and goals of the Chatham County Land Use Plan; that it is located at the intersection of existing public roads near Jordan Lake and near Mr. Blair's existing similar facility; that the project will promote recreation and tourism by providing users of the areas lakes and rivers, a convenient location to store their equipment, and a high quality, tastefully designed facility; that during the second portion of the hearing, the Board will hear from several residents of the area who will testify that this is a desirable and needed service that they make use of and will continue to make use of in the future; that the project promotes the goal of designing small cross-road commercial businesses and forms its support for rural character and will have low impact on the surrounding properties; and that Mr. Clyde Ward, who is a long-term resident of the immediately adjoining property to the east, could not attend the night's meeting but submitted a letter stating that he was not in opposition to the requested zoning change. A copy of Mr. Ward's letter is attached hereto and by reference made a part hereof.

Jerry Barnes, 1 Jordan Drive, Pittsboro, NC, stated that they are talking about traffic problems, about mixing businesses with residential properties; and that he opposes the request.

Ray Greenlaw, 2 Jordan Drive, Pittsboro, NC, stated that the existing configuration of Mt. Gilead Church Road is tough enough to traverse in a passenger vehicle; that it is even more difficult to maneuver those same twists and turns with fully loaded, monster dump trucks traveling to and from the S.R. Wooten asphalt plant, i.e. moving in both directions from US Highway #15-501 and US Highway #64, as they enter the intersection of SR #1700 and Sugar lake Road, SR #1714; that the extensive potential elements of the "Conditional use Permit for Self Storage Facility" could easily evoke an additional request to change the adjacent residential tract; that converting one or both of these residential tracts to accommodate such business entities surely would impede access to existing and potential residential properties along both sides of Hatley Road, both sides of Sugar Lake Road, and the west side of Mt. Gilead Church Road, and south of its intersection with SR #1714.

Laura Lauffer, 330 Hatley Road, Pittsboro, NC, stated that she lives on Hatley Road; that one of the reasons she is in Chatham is to enjoy the environment; that she was prepared for residential not business development, and that this does not meet the conditional use permit criteria.

Pierre Lauffer 330 Hatley Road, NC, stated that he has seventeen years of environmental assessment experience; that it is very low-lying land; that the southwest corner has been underwater about three times in the last ten years; that the Ward's pond has overflowed; that this should be on US Highway #64; and that it is poor planning and outside of the Land Use Plan. He thanked the Board for their time.

The Chairman closed the public hearing.

BREAK

The Chairman called for a ten-minute break.

Quasi-Judicial Hearings:

(Items #17, #18, and #19 below are quasi-judicial hearings and factual evidence is required to be provided under oath by persons who qualify as interested parties i.e. normally nearby and adjacent property owners and their experts).

The Chairman administered the oath to those in attendance who wished to make public comments.

Conditional Use Permit for Self-Storage Facility: Public hearing to receive public comments on a request by John W. Blair for a Conditional Use Permit for - Self-storage facility/mini-warehouse storage facility with related retail and services (i.e. moving truck rental) and - Uses and structures customarily accessory to any permitted use - specifically for boat, *recreational vehicle and other self-storage and an associated residential use*, on 10.613 acres, located at the southeast intersection of SR

#1700, Mt. Gilead Road and SR #1714, Hatley Road, New Hope Township

Patrick Bradshaw, Attorney for the applicant, stated that he was happy to hear the support for building more houses and more commercial development on Highway #64. He introduced Mr. John Blair and stated that Mr. Blair had lived in Chatham County all of his life; that his ancestors had lived in the County since the 1700's ; that he is not getting ready to move; that all of the members of Mr. Blair's development team who prepared the application that was submitted and have been sworn; that he requests that the written application, including the supplemental submissions made on February 20th, be included in the record; that there is a growing need and desirability in this area of Chatham County for the project that Mr. Blair proposes; that Mr. Blair constructed his existing facility, off Highway #64 in five phases from 2000-2004; that each time he opened a new phase, the units leased to capacity in a very short period of time causing him to begin construction on the next phase so that the facility was nearly continuously being expanded during that five year period based solely on demand for the services that he was offering; that the existing facility is currently leased to capacity and has been for over a year; that Mr. Blair had no additional room at his existing location to expand his business; that for some time, Chatham County officials have been discouraging additional development directly on Highway #64 due, in part, to the NCDOT study that concerned that corridor; that the County Land Use Plan and general practice encouraged commercial development at existing cross-roads; that this project is located at a cross-roads of existing public roads that is just one intersection removed from Highway #64; that with the population growth occurring in this part of North Carolina and the increased recreational use of Jordan Lake, there will undoubtedly be a continuing growth for self-storage facilities; that Mr. Blair's facility design, screens the storage content from passers-by, muffles noise, and requires no high-power or extensive lighting; that traffic to and from the site is minimal; that the enclosed design promotes security; that Mr. Blair has five year's of experience operating at his current site; and that he is very proud of the relations he has had with adjoining property owners and occupants; that the written application includes six letters signed by owners and occupants of residential properties adjoining Mr. Blair's existing facility who state that they have not experienced any negative effects from noise, lighting, traffic, or other business-related activity on this property; that, to the best of Mr. Blair's knowledge, there are no other storage facilities in the area that provide the same amenities that Mr. Blair offers, including electrical hook-ups, optional surfaces and heights in the storage units, overhead lighting, and generator backup on the gates; that Mr. Blair's facilities are especially aimed at large and valuable boats, recreational vehicles, and other similar items; that Mr. Blair projects that his property, at completion of construction, will be approximately over 1.1 million dollars; that at the 2005 tax rate, that valuation will generate ad valorem tax revenue of \$7,227.00 per year compared to the incoming \$825.00 produced by the property last year; that the project will also contribute to overall economic activity including recreational and tourism activity which are promoted throughout the Land Use Plan; that there will be limited demands on services; that the project will have no significant impact on traffic; that on peak holidays usage is about 15%; that the noise will be minimal and not affect adjacent landowners; and that any signage will comply with zoning ordinance and design guidelines.

Tim Barber, 6814 Mimosa Drive, Chapel Hill, NC, stated that he is a licensed architect in the State of North Carolina and that he had worked with John Blair on site plan; that the building is an irregular configuration; that from the road you will not see much; that the main entrance is on Mt. Gilead Church Road; that there will be a residential unit on top of two of the bays; that this is for security; that there will be a 4' x 8' sign at the main entrance; that the landscaping along both roads meet the criteria; that natural vegetation is used on the south and east sides; that the lighting will be a minimum; and that it will be to the inside and not reach the limits of the site.

Phillip Koch, 4222 Ellisfield Drive, Durham, NC, stated that he has been a professional engineer for ten years and that the low-lying area drainage has been addressed.

David Johnson, 240 Running Deer Road, Pittsboro, NC, stated that he lives one mile west of this project; that this area is very low impact; that he sees no reason why the project could not go on as planned; and that with the buffers in place, they will hardly know that it exists.

Theda Sawyer, 528 North Pea Ridge Road, Pittsboro, NC, stated that she owns TOPS Lake and Sport Shop; that she has people in her business a couple of times a week asking for boat storage; and that she has no trouble at all with this project.

John Arthurs, 230 Dogwood Lane, Pittsboro, NC, stated that he owns Wilsonville General Store; that they have people asking on a regular basis for boat storage; and that the current business is clean and there are no traffic problems.

David Harris, 1180 Jones Ferry Road, Pittsboro, NC, stated that he has helped Mr. Blair oversee his current facility; that there has never been any trouble at the facility; that there have never been over two people there at one time; that Mr. Blair takes pride in running a first-class boat storage; and that there have been no noise complaints or problems.

Diane Stokes, 445 Bill Thomas Road, Moncure, NC, stated that she is a real estate appraiser in Chatham County since 1986; that she was asked to see if the proposed site would have any negative impact on property values on adjoining landowners; that she does not think that it will have a negative impact on property values; that she thinks it is a good use in a good spot; and that it is a benign business.

Tom Stumpf, 532 Chatham Drive, Pittsboro, NC, stated that there is a lot of misconception about the property; that he is a tenant of Mr. Blair's; that he was out at the existing facility quite a bit in the last year; that the existing site was very quiet; that most folks towing a large asset will not be traveling at a high rate of speed; that he has been on a waiting list at Crosswinds for two to three years for a boat slip; that there are a lot of people waiting to get into Mr. Blair's current facility; that without the existing facility of Mr. Blair's, he would not be able to spend his money enjoying Jordan Lake.

Sam Corey, 1221 Dalgarnen, Apex, NC, stated that he is a boat owner and a tenant of Mr. Blair's; that he did extensive searching for a facility near his home in Apex; that there is rarely anyone else there; that it is about as low an impact as anything else you may put on the property.

E.J. Secola, 261 Hogan's Valley Way, Cary, NC, stated that when he first moved to the area, he researched many places to store his boat; that he was looking for security; that Mr. Blair's facility provided everything he was looking for; that he has never had to wait to gain access to the gate; that if there are two to three other boaters there, it is crowded; that it is a neat and clean facility.

Patrick Bradshaw, stated that on behalf of Mr. Blair, he would respectfully submit that the evidence submitted in the application and at the hearing is sufficient to support the five findings required under the Chatham County Zoning Ordinance and that he requests that the Board approve the application at the appropriate time. He stated that as other speakers who come forward may have a different opinion, he would like to lodge a general objection to the testimony of any witnesses who do not have standing to testify under North Carolina law and any opinion testimony that if offered without natural examination.

Dave Klarmann, 380 Hatley Road, Pittsboro, NC, stated that he is a real estate broker and manager of Blue Hill Territories, LLC; that he has done two subdivisions in the County; that his house is 2/10 of a mile from the property in question; that the application informs that improvements will generate approximately \$1.1 million in tax value when fully built out; that the purchase price was \$145,000 which sounds good; that if the property on Highway #64 is examined with established storage facilities on 11.5 acres, the combined tax value is \$918,604.00; that these businesses belong to Mr. Raymond May (American Storage with four acres) and Mr. Brian McGinnis and Robert Kapp (with board and recreational vehicle storage on 7.4 acres); that it should be noted that McGinnis and Kapp purchased their property in 2001 for \$462,000.00; that it is now valued at \$482,418.00 which is a paltry increase for commercial property; that in 2002, he purchased a 10.7 tract of land on Mt. Gilead Church Road; that the purchase price was \$123,600.00; that there are now three houses and one vacant lot on this property located in the Shade subdivision with a tax value of the combined properties at \$863,220.00; that should a fourth home of 1,600 square footage be constructed on the remaining vacant lot, this being the minimum

permitted by restrictive covenants, the tax value on this property would certainly exceed one million dollars; that the corner lot in question at Hatley road and Mt. Gilead Church Road has perk sites available as indicated in the soil report of Mr. Schaffer; that should three home sites be surveyed out, it appears an equal or greater tax value could be gained by residential development; that he wonders if it is worth destroying the existing corridor of neighborhoods along Mt. Gilead Church Road to appease one man; that he wonders if home sites should be traded for spotlights, razor wire, barbwire, gated fences and locked storage sheds; that this is not his idea of minimizing crime; that he strongly recommends that the Board maintain the status quo with regard to the RA-40 zoning along Mt. Gilead Church Road stating that if a change is permitted on the corner of Hatley Road, one can be certain that a wave of conditional use permits will follow.

The Chairman closed the public hearing.

Revision to Existing “Booth Mountain Planned Unit Development”: Public hearing to receive public comments on a request by Nick Robinson, Attorney, on behalf of MacGregor Development Company for a revision to the existing “**Booth Mountain Planned Unit Development**” to relocate the amenity area. The project area consists of 180 lots on approximately 294 acres located off SR #1717, Jack Bennett Road, and SR #1721, Lystra Road, Williams Township

Nick Robinson, PO Box 607, Pittsboro, NC, stated that he is representing the developers; that Booth Mountain was approved in January, 2005; that the purpose of the request is to seek a slight modification of the approved sketch design so as to relocate the amenity area; that the idea is to move the swimming pool amenity area to the south side of the Herndon Creek ravine still keeping in place all of the important buffers that were proposed from the outset of 200 feet off the ravine; that in addition, the amenity area would be placed on a public road; that was done in order to make access easier; that the benefits are that it will be located in the neighborhood section of the development; that there will be no net increase in the number of lots; and that all the setbacks and buffers would be observed without change. He requested that this minor modification be approved planned residential permit be approved.

Mark Ashness, stated that the walk bridge will still be included; that it is sitting on a knoll; and that they are honoring the same setbacks from Herndon Creek that were set up when the amenity was located on the other side of the creek.

Rynel Stevenson, traffic engineer, stated that he did the traffic study for the original submission and that there is no significant impact from moving the amenity area.

Allison Weakley, 311 Booth Hill Road, Chapel Hill, NC, stated that she is a neighbor of the Booth Mountain development and a biologist by trade; that she is happy to have the opportunity to comment on the proposed changes for the Booth Mountain development; that she called the Planning Department asking for an itemized list of the proposed changes; that Ms. Richardson said that she did not have one; that she later forwarded to her an e-mail from Mr. Robinson stating that all of the buffers and setbacks and originally made conditions in the Conditional Use Permit would be honored; that she also asked for a map of the entire development so that she could see what other changes the amenity area made in lots adjacent to the Booth Hill neighborhood; that she asked for the map in order to make sure that shifts in road locations had not impacted the setbacks on her neighbors; that the wording in the Conditional Use Permit states that all setbacks are related to the placement of the roads; that that is fair information for property owners to be aware of; that she thinks it is wise for the development to have moved the amenity center to a more public spot; that she would ask the Board to ask the pool to be made public and open up memberships to neighborhoods in the Lystra/Jack Bennett area; that they have a lack of recreation facilities in north Chatham; that the closest pool to her house is probably in Orange County in the Heritage Hills Subdivision; that it is a private subdivision but that they open membership to area folks; that a lot of people from north Chatham utilize the pool; that she thinks it would be a benefit to the County citizens if the pool was made available to the community; that membership fees could be charged; that she also was surprised to learn that a playground was being built in the amenity center which could also benefit the public.

Mark Ashness stated that the submittal is to shift the amenity; that the next step is for Phase 1 preliminary plat design; that the lot numbers will be changed at that time; that some of the water quality ponds have shifted 40-50 feet; that this is the difference between using aerial topographic maps and real topographic maps; that the intent of the property setbacks and stream buffers is consistent with the original design; and that these types of changes are typical of planned unit developments.

The Chairman asked that the developer consider meeting with the residents when completing the preliminary plat design.

Nick Robinson stated that there is still a 150 foot setback from adjacent property owners; that there are no intentions of changing that at all.

The Chairman closed the public hearing.

Conditional Use Permit for a Planned Unit Development “Lystra Gardens”: Public hearing to receive public comments on a request by W. R. Henderson & Associates on behalf of Shannon P. and Judith H. Hallman and Bradley A. Thomas, Etals for a Conditional Use Permit for a Planned Unit Development for a cluster subdivision, “**Lystra Gardens**”, consisting of 139 lots on approximately 140 acres, located off SR #1721, Lystra Road, Williams Township

Garon Reeves, developer representative, W.R. Henderson & Associates, stated that the property is already zoned for RA-40; that they could have developed it as a conventional development; that they looked at doing a conservation subdivision; that a conservation subdivision looks at what is on the property, what one wants to preserve, and then develops around it. He further stated that one does the same number of lots with smaller lots; that the goal is to reduce the impact of the development; that they want to hear from the neighborhood; that they need to address traffic; and that they will add a botanical and biological study.

Kevin Hamick stated that he is a landscape architect working on the project; that the developer is not proposing to rezone the property; that there is an improved sewage treatment system; that there will be an extensive system of trails and gardens available to residents; that lots do not back up to other lots; that they are proposing to reduce setbacks and reduce lot size; and that it will promote greater flexibility for homeowners to place lots where needed to preserve existing vegetation. He further stated that they are striving to make this development as environmentally responsible as they can; and that preliminary traffic studies indicate that Lystra Road can accommodate the added traffic. He stated that there is a small area that is a significant wildlife area in a corner of the proposed project; that they are committed to not have any building done in that area.

Don Belk stated that he is a senior planner with John R. McAdams Company; that local governments and developers must change how and where land is developed; that their streets are designed to the minimum amount of width; that they aimed to increase the number of homes per unit length through street layout; that rights-of-way widths should only be the minimum required to allow drainage systems; that the radius of cul-de-sacs should be the minimum radius to allow for the turn around of emergency vehicles; that where soils and slope permits, vegetative open channels should be used to help convey street run-off; that stormwater should be treated for impervious surface run-off and to encourage the use of bio-retention areas; that they are using cluster development to lessen the impervious surface area; and that the reduced setbacks will also help reduce total impervious surface. He further stated that the project will clearly identify where open space will be and what it will be used for; that there are many other conservation design principles at work in this project. He stated that low-impact development takes stormwater run-off and decentralizes it and it takes the flow and allows it to filtrate and be handled on a lot-by-lot basis; that it also allows land to be developed in an effective way; that low-impact developments are encouraged by water regulatory agencies; that Lystra Gardens will use filtration systems to treat water; and that it will reduce run-off and pollutants.

Mike Sanchez stated that he is a registered engineer with John R. McAdams Company; that adequate water supply is available; that the wastewater collection system will employ a traditional gravity system; that the collected wastewater will meet the state requirements and conveyed to an irrigation pond; that it will accommodate wet weather and seasonal concerns; that there will be two ponds: an irrigation pond and a five-day holding pond; that the key to a good irrigation system is design and control; and that the maintenance of the facility will be carried out by professional people with current technology.

Lee Fleming stated that he is an engineer working on the project's wastewater system; that the project will have a central wastewater treatment system; that they anticipate 60,000 gallons per day; that there will be twenty-four hour monitoring of the turbidity; that the design will meet the Division of Water Quality reuse standards; that odor has been a concern in the past; there are a number of steps that can be taken for odor control; and that noise will be reduced by blowers.

Jason Payne stated he is an environmental consultant working on the project; that an important stream is one that is classified by the US Army Corps of Engineers as performing an important aquatic function; that important streams have ground water flow throughout the year; and that there are four important properties near the perimeter of the proposed project.

Jim Beason stated that he is a soil and environmental consultant and that this property is not in a Triassic basin.

Marilyn Collins, 838 Lystra Road, Chapel Hill, NC, stated that she was no longer "on the clock" as a County employee; that she and her in-laws are adjacent landowners; that her in-laws have been living in the area nearly all of their life; that this land has been in the family for two hundred years; and that she had attempted to purchase five acres of the property earlier to prevent someone from building right beside of them. She stated that the open space is the spray field; that the wildlife will be compromised by all the houses; that the application is difficult to follow with no page numbers or incorrect page numbers; that the houses are clustered right on top of one another; that the lots are too small; and that there should be permanent open space, not just a spray field.

She stated that the housing types are not specified in the application; that the lot size is variable; that six of the lots back up to their property; that the spray field is approximately two hundred feet from their well; that they claim it will preserve forestry, yet they have small lots and tree planting widespread; and that these homes would not fit in the rural character; that it does not fit in the surrounding community; that the Governors Club is down the road, not next door; and that one cannot see the Governors Club houses from the road but will be able to see these homes. She questioned what happens when the sewer systems fail and stated that the proposed development will have a tremendous impact on public services; that they need to lose forty lots and use the zoning that Chatham County already has; that 1,370 more cars on Lystra Road would have a tremendous impact, considering the other developments already approved; that the value of their land will go up but will not help because they are not selling; that the buffer along their property line will be minimal; that they need an undisturbed buffer; that forty more lots will make a difference; and that their pledge to involve the neighbors thus far has included sending a realtor out to see if the neighbors would sell; and recommends that the traffic study include all the developments currently approved. She asked that if the Board allows this development to be built, that the developer be made to provide: 1) An undisturbed, vegetative buffer of 150 feet with 3 ½ gallon pot plantings; 2) The developer has to move the spray field to the middle of the property; 3) The six houses be backed away from their property line; and 4) A tall fence be placed along their property line.

Simon Smith, 598 Jones Branch Road, Chapel Hill, NC stated that their property abuts the southeast corner of the site; that he urges the Board of Commissioners to deny this application for this permit; and that it fails to meet Findings #2 and #3. He stated that Finding #3 is out of step with the surrounding community; that this proposed ¼ acre subdivision doesn't leave much room for trees with a \$500,000 house; that the rural character is being eroded; that the application does not make a strong case to protect the health and safety of the residents; that the spray field is in the area that the soil consultant said is unsuitable for the area; and that the water quality of his well is very good and he'd like to keep it

that way. He further stated that the safety of the community is not met; that all the other development projects are ignored when talking about traffic volume; that the welfare of the community is also not met; that the target buyers for homes are Research Triangle Park employees; that these are not current residents of Chatham County; and that it is neither desirable or wanted by current residents. A copy of Mr. Smith's comments are attached hereto and by reference made a part hereof.

Gretchen Smith, 598 Jones Branch Road, Chapel Hill, NC stated that she is an adjacent landowner; that the land is heavily forested; that there is a steep slope down to Jones Branch Stream; that there is then a steep slope going up the other side of the stream to the ridgeline; that views like this are what make Chatham County special; unfortunately, this view looks onto the proposed Lystra Gardens subdivision; that she is opposed to this application as submitted by the developer and asks that it not be approved because the application does not meet Findings #2-4 for the following reasons: 1) Visual Impact; 2) Quality of life; 3) Property values; that they may be adversely affected by loss of a forest view from clearing for wastewater spray fields and high-density housing and insufficient undisturbed buffers, environmental degradation of the stream from wastewater treatment and use of fertilizers and pesticides in the lush gardens, increased traffic congestion, increased property taxes to pay for infrastructure costs not paid for by the developer, increased light pollution if full cutoff fixtures are not used on all exterior lighting, increased noise pollution from construction and high-density neighborhood, potential odor from the waste water treatment system, impairment of the rural character and integrity of the surrounding area due to rural sprawl. She stated that the application mentions open space, but the details are not adequately described in the application; that their property is part of and abuts, two natural areas tracked by the NC Natural Heritage Program, Booth Hill and Herndon Creek Ravine; that the application's site plan discussion states that aesthetics play an important role in the design of the project; that the application as proposed does not fit the surrounding community; that the application states that the natural scenic beauty of northeast Chatham County will also draw people looking for quality housing to the area; that these scenic vistas and undisturbed natural area are valuable quality of life and economic assets for Chatham County that should be preserved and protected. She asked the Board to please protect and preserve these assets by not approving this application as submitted.

Cosi Long, 50 West Newman Road, Chapel Hill, NC, stated that she and her husband have never thought of developing their land; that Herndon Creek, a perennial creek that flows into Jordan Lake, runs along some of that boundary which is characterized by a deep ravine on either side of the creek; that she moved to Chatham County in 1983, bought property in 1989, and has been a taxpayer for seventeen years; that she is deeply opposed to the Lystra Gardens development as it is proposed because the present plan endangers public health, safety, and welfare of the community; that it profoundly impairs the integrity and character of surrounding and adjoining areas; that as she walks the land where the present Lystra Gardens development plan designates house site, wastewater spray fields and roads, she concludes that the developers themselves could not possibly have walked the land and have no real knowledge of it; that the developers have not done their homework and do not seem to have given any serious thought to solving the many environmental and topographical challenges that face them; that she would be happy to have neighbors, but not in a development that is so ill thought out and injurious to the community and to her personally as an adjacent property owner; that she opposes the development because: 1) Endangerment of public health and welfare through absence of perennial stream protection; 2) Endangerment of public health and welfare through inadequate protection of intermittent and ephemeral streams; 3) Failure to preserve the character and integrity of the area and to protect her property rights as a landowner and taxpayer; and that this is clearly a well-known corridor for wildlife; that implementing the present Lystra Gardens proposal would result in its destruction. She thanked the Board for their attention.

Robin Dennis, 50 West Newman Road, Chapel Hill, NC, stated that his property abuts nearly the entire southern section; that he is concerned about Findings #3 and #5; that the average lot size is 6.2 acres along Lystra Road; that the proposed lot sizes are about 5% as large; that light pollution from this development will have a negative impact; that the developer should conform to the Draft Lighting Ordinance; that the adjacent Herndon Creek natural area will be negatively impacted unless a wider natural forested buffer is adopted that Herndon Creek Ravine, running along the southern boundary of this development, is one of the steepest ravines in the County; that a 300 foot buffer to provide a corridor for

wildlife is what was intended with the ownership of three contiguous lots; that the proposed buffer of 50 feet will negate all of their efforts to provide a corridor for wildlife; that the buffer of 300 feet proposed by the Natural Heritage Program in the March 17, 2006 letter to Mr. Keith Megginson should be adopted around Herndon Creek; that all of Jordan Lake was listed by the State as an impaired water body for nutrients in 2005; that Herndon Creek flows into Jordan Lake and Herndon Creek water quality is a concern; that Herndon Creek Ravine, running along the southern boundary of this development, is one of the steepest ravines in the County; that the clay soils (Triassic soils) make good storm water management mandatory; that the Lystra Gardens application does not address how storm water flow from ditches and impervious surfaces will be converted to diffusive flow before reaching any buffer zone; that a 100 foot forested buffer for water quality should be required to provide a margin of safety for thin soils noted on the Lystra Garden soils map; that from the vague wording in the application, it is not clear chemicals and fertilizers will be prevented from getting into Herndon Creek, affecting its water quality; that the wastewater spray fields on the steep slopes right above Herndon Creek are a major concern relative to long-term maintenance of water quality and these spray fields should not be allowed.

Raymond Collins, 160 Peace Street, Chapel Hill, NC, stated that he is a lifelong resident of Chatham County; that 139 units in the development seriously impacts the traffic on Lystra Road; that the quality of life is impacted by walking trails that impact adjoining property owners; that the spray system may pollute existing water sources; that he is fearful of the quality of the well water after spray and runoff; and that he would like to know what responsibility the County will take if things go poorly.

Kathleen Emerick, 424 Jones Branch Road, Chapel Hill, NC, stated that she lives just down the hill from the proposed development; that she and her husband moved here just last year; that they are putting some of their future plans on hold pending this development; that if this development is permitted to proceed as requested, they will be faced with towering homes glaring down at them from the top of the ridge, a wastewater treatment plant, the exact location of which is unidentified in the application, the potential runoff of silt from the construction and development clogging Jones Branch Creek which runs throughout their property, as well as the effluent from the wastewater spray fields seeping into the creek, the soil and their vegetable garden which sits below the proposed wastewater treatment area; that she is opposed to the Lystra Gardens subdivision I its current application; that she is opposed to the rezoning request for the land from RA-40 to RA-40 CUD; that for Finding #2: Contradictions run throughout the application; that there is the repeated mention of preserving open space and woods but according to the submitted drawings, the open space will consist of treated wastewater spray fields, including an ephemeral creek that empties into Jones Branch Creek on their property; that it is not in keeping with the character of land use in this community: that for Finding #3: The requested permit will not impair the integrity or character of the surrounding adjoining district and will not be detrimental to the health, safety or welfare of the community; that law enforcement and rescue have been consulted and will comment as to requirements after site plans have been submitted; that this is not in keeping with the submission materials checklist in the application for the CUD permit and therefore does not meet the requirements; that her taxes will likely increase and day-to-day suffering will occur due to visual impact of the houses at the edge of her land, but mostly from the seepage and runoff from the wastewater spray fields, the storm water impact and the loss of recreational value; that she will not longer be able to enjoy the trails throughout the woods which her family, as well as many other residents of the surrounding area hike on a daily basis; that for Finding #4: That given the topography of the sloping, heavily wooded acreage many trees will have to come down in the initial construction; that once again the claimed open space will be utilized for wastewater spray fields; that the rural character of the natural environment would be more in keeping with the current RA-40 zoning on this acreage; that for Finding #5: Adequate water is not addressed in the application; that there is no solid information on the storm water management practices, other than the description of the low impact design; that storm water runoff is of great concern given the topography of the land and the steep slope of the land to the creek; that this certainly needs further clarification and as it now stands, this does not meet the application requirements; that the application is fraught with inconsistencies. She stated that there are many unanswered questions that make her very nervous about the reliability of the project. She thanked the Board for hearing her concerns and asked that they listen to those speaking and make their decisions based on what is best for the community as a whole and not the few who stand to profit.

The Chairman declared, due to the late hour and the number of people remaining to speak, that the public hearing be continued to the April 17, 2006 Board of Commissioners' meeting.

Jolmar Miller, 1304 Lystra Road, Chapel Hill, NC, stated that, with respect to all who have spoken, this issue is not about specifications, credentials, conservation, principals, low-impact development, etc, it is about the people who are currently living there and their quality of life. She stated that this is not about what is going to happen inside of that community; that it is about what is going to happen outside of that community and what is going to happen to that community as a whole; that her great-grandmother lived at 1304 Lystra Road, which is adjacent to the proposed subdivision on the right side, and died there at the age of 102; that her grandmother, who is 88 years old, lives there with her sister; that she would hate to think that the end of their lives would be spent dealing with demolition, potential pollution of their water, and all the other things that have been brought up; and that she also thinks that any group that cares for the environment as this group implies, would not propose to put 139 lots on 144 acres and not do a base traffic study and come before the Board and all those in attendance and not be prepared to speak about what they really want to do. She stated that she was very opposed to the proposed development.

BOARDS AND COMMITTEES

Recreation Advisory Board: Consideration of a request to appoint one (1) member to the Recreation Advisory Board by Commissioner Barnes

Commissioner Barnes deferred his appointment to the Recreation Advisory Board until a later date.

MANAGER' S REPORTS

The County Manager had no reports.

COMMISSIONERS' REPORTS

School Board Resolution:

Chairman Morgan stated that the school board was probably going to adopt their resolution Tuesday week. He asked the County Attorney if there was any action which the Board of Commissioners needed to take in order to get started working on it.

The County Attorney stated that he would first need the resolution adopted by the Board of Education and that he will alert bond council.

One-Cent Sales Tax/Medicaid Issues:

Commissioner Cross stated that the proposal is for counties to give up one-cent sales tax to the State, \$700,000 for Chatham County; that the State would take over counties Medicaid payments, \$2.2M for Chatham County, and give the Board the authority to legislate an additional one-cent sales tax to make up for the one given up; that the Board told Representative Hackney and Senator Atwater that they oppose this deal because the sales tax income is on the rise and Chatham County could lose money in a few years; that he thinks that Chatham will stay ahead of the game with the trade even without having to legislate the new one-cent sales tax; that his guess is that Medicaid is likely to rise more due to increased numbers of patients from the closure of Mental Health Facilities and divestiture of services from the Orange-Person-Chatham (OPC) Mental Health system; (i.e., as services become more available on a local basis, he would expect to see more citizens using them) and OPC represents a large part of the County's Medicaid responsibility; and that he doesn't think this was considered. He asked staff to take review it and if this is the case, the Board needs to let the legislators know soon before the short session.

Affordable Housing Luncheon:

Commissioner Cross informed the Board of the Affordable Housing Luncheon to be held on Friday, June 2, 2006 at Fearington. He stated that more information will be forthcoming.

Planning Board Appointment:

Commissioner Outz moved, seconded by Commissioner Emerson, to appoint Paul McCoy, 3557 Pea Ridge Road, New Hill, NC, to replace Jeff Austin, on the Planning Board. The motion carried five (5) to zero (0).

Environmental Health Fee:

The Chairman explained that Board members had received an email from Mr. John Gray regarding permitting fees.

Mr. John Gray, 123 Cub Creek Extension, Chapel Hill, NC, explained that he had paid permitting fees for tract #9 and tract #10; that at a later date, he proposed to split them; that the original sites were reviewed and approved by the Health Department; that the proposed split was done, he paid the fees for tract 9A and tract 10A; that the Environmental Health staff had been out and reviewed the proposed sites and approved them; that he had a phone conversation with Ms. Coleman, Environmental Health Director, stating that they were prepared to issue the permits on tract #9A and tract 10A, but if they did that, they would proceed to revoke the permits on the original tract #9 and tract #10; that the sites identified on the original tract #9 and tract #10 have not been altered; that there is no reason to pay an additional fee, which he has been asked to do, on the original tract #9 and tract #10 and pay an additional fee for a new permit; that the site has not been altered.

The County Manager suggested that the Board defer the matter to the April 03, 2006 work session when Ms. Coleman could be present.

The County Attorney stated that it was his understanding that the permit was issued for a ten-acre site; that if it was divided, the property was considered "altered" and a new fee is called for.

After considerable discussion and by consensus, the Board deferred action on this matter until the April 03, 2006 work session until the County Attorney can research the matter.

RECESS

Commissioner Emerson moved, seconded by Commissioner Cross, to recess the regular meeting until April 03, 2006 at 9:00 AM. The motion carried five (5) to zero (0), and the meeting was recessed at 11:22 PM.

Bunkey Morgan, Chairman

ATTEST:

Sandra B. Sublett, CMC, Clerk to the Board
Chatham County Board of Commissioners