

## **..TITLE**

Vote on a request to approve by Warren Mitchell on behalf of Morgan Ridge Partners, LLC for subdivision **First Plat** review and approval of **Morgan Ridge Conservation Subdivision Phase 2**, consisting of 36 lots on 80.25 acres, located off Jones Ferry Road, SR-1942, parcels #1435 and #69883.

## **..ABSTRACT**

### **Action Requested:**

Vote on a request to approve by Warren Mitchell on behalf of Morgan Ridge Partners, LLC for subdivision **First Plat** review and approval of **Morgan Ridge Conservation Subdivision Phase 2**, consisting of 36 lots on 80.25 acres, located off Jones Ferry Road, SR-1942, parcels #1435 and #69883.

### **Introduction & Background:**

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. This is a conservation subdivision and lot sizes and setbacks vary, but the method to calculate net density is outlined in the Subdivision Regulations. A public hearing on the request is required per the Subdivision Regulation, Section 5.2 C (4)(a) "During a First Plat review, the first Planning Board meeting shall include a Public Hearing to receive comment on the proposed subdivision." Item (b) states "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. If the Board recommends disapproval or approval subject to modifications, the necessary reasons or modifications will be specified in the minutes of the meeting." 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 a conservation subdivision, Morgan Ridge Phase 2, consisting of 36 lots on 80.25 acres, located Jones Ferry Road, S. R. 1942. A vicinity map showing the property location is included in the First Plat booklet.

Section 7.7 of the Subdivision Regulations, Conservation Subdivision – Alternative Standards for Development states in part "As an alternative to conventional layouts, Chatham County encourages the preservation of large, contiguous blocks of land.....When a project voluntarily preserves Conservation Space in accordance with this Section, a project can increase the number of units that would be allowed on the overall property by ten (10) percent. Calculations of the density bonus shall be based on the applicable underlying land use regulations(s) dictating allowable development density." Section 7.7 J. states in part "conservation subdivisions proposed for the purposes of sustaining existing on-site bona fide agricultural operations are entitled to a five (5) percent increase in permitted density (this in addition to the ten (10) percent

density bonus)...” Please read the entire Section 7.7, Items A – N for a complete understanding of Conservation Subdivisions. Also, please refer to the *Chatham County Conservation Subdivision Guidelines for Conservation Space Selection* which is available on the Planning Department webpage under Ordinances and Regulations. A conservation subdivision requires that a minimum of 40% of the project area be retained as Conservation Space. A minimum of 80% of such Conservation Space shall be Natural Space and a maximum of 20% of the Conservation Space may be Open Space.

**Density Calculations:** The site plan includes the total number of lots allowed including the 10% density bonus allowance. The land required to be deducted when calculating the overall density within a Conservation Subdivision (i.e. special flood hazard area) is .11 acres. This area (.11 acres) was deducted from the total acreage of 80.25 acres to arrive at the net land available for the density calculation of 80.14 acres. Based on the net land area the lot yield would be 53.43 lots and would increase to 58.76 lots with the 10% density bonus. However, the developer is proposing 36 lots, which is less than the number of lots allowed under the conservation subdivision option.

**Conservation Space:** Of the total project area of 80.25 acres, 32.10 acres is required to be included in Conservation Space and the site plan indicates that 34.8 acres will be set aside. See the site plan for the breakdown and location of the Conservation Space. The area set aside for Conservation Space meets the requirement that 40% of the project area be retained as Conservation Space.

**Natural Space:** 80% of the Conservation Space is required to be Natural Space. The Conservation Space Guidelines states “Natural space is unimproved land in its naturally occurring state, or preserved to regenerate to its naturally occurring state, unaltered by human activity, and preserved to maintain or improve the natural, scenic, ecological, cultural, hydrological, or geological values of an area.” The site plan indicates that 31 acres of Natural Space will be provided, which exceeds the minimum 80% requirement or 25.68 acres.

**Open Space:** A maximum of 20% of the Conservation Space may be Open Space. The site plan indicates that 6.35 acres of Open Space will be provided, which is less than the maximum 20% (6.41 acres) allowed under the conservation requirements. The ‘Guidelines’ state “Open space, as defined in the Subdivision Ordinance, allows amenities such as recreational uses and some non-intrusive common uses (e.g. when land application is not the preferred means of wastewater disposal, community septic systems are allowed in Open Space areas). Open space should be located as close to proposed development as practicable, taking into account considerations such as public safety and soil suitability.” See Section 7.7 (D), Items 1 – 7 for allowed uses in Open Space related to Conservation Subdivisions. There are no amenities proposed for this site. All land disturbing activities associated with the Conservation Subdivision are

subject to the full provisions of the Soil Erosion and Sedimentation Control Ordinance, regardless of the designated use or status of a given area.

**Roadways:** The roads are to be built as a 60 foot wide public right-of-way, with a 20 foot wide travelway, will be approximately 2400 feet in length, and are to be state maintained.

**Historical:** Bev Wiggins, Chatham County Historical Association, corresponded to the applicant by email on April 29, 2019. Ms. Wiggins thanked the applicant for his efforts to locate a gravesite believed to be on the property. Ms. Wiggins would like to be contacted if any items of historical significance are discovered during the development of the site.

**Schools:** Notification of the proposed development was provided to the Chatham County School System. See notification in the application booklet

**General Environmental Documentation:** The developer submitted the General Environmental Documentation and a letter, dated August 6, 2019 from North Carolina Department Environmental Quality Natural Heritage Program to Chatham County Land & Water Resources Division for review. "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, and/or conservation/managed areas within 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, Watershed Protection Director, reviewed and approved the information submitted.

In the *Conservation Subdivision Guidelines for Conservation Space Selection* two maps are required to be submitted, a Fragmentation Map and an On-site Inventory Map (see attachment #4). The Fragmentation map illustrates the project site and all land within one mile of its boundaries and is designed to assist the applicant in deciding where Conservation Space should generally be located to create connections with existing Natural Space, or allow future Natural Space connections on adjacent properties. The On-site Inventory Map is used as the "primary decision-making tool for the applicant in selecting specific areas to include in Conservation Space, and the County in issuing approvals. Please review the 'guidelines', Item 2.1 and 2.2 for more details about the mapping requirements. The fragmentation map and on-site inventory map series are included as attachment #4. The County Watershed Protection Department staff has reviewed the maps and determined they are adequate to meet the submittal requirements.

**Ownership / Management of Conservation Space:** Section 7.7 (F) of the Subdivision Regulations requires that the applicant identify the current and intended future owners(s) of the Conservation Space and who will be responsible for maintaining the area / facilities. Per the Draft Conservation Management Plan the Natural Space and the Open Space will be maintained by the Morgan Ridge Phase 2 Homeowners Association. Section 7.7 (G) requires that a management plan for the Conservation Space be submitted to and approved by the County. A copy of the draft plan has been provided by the applicant. Per Section (G) "Upon initial approval of the management plan by the County, changes to the plan shall be allowed only when approved by the County Board of Commissioners." Section (H) requires that the Conservation Space shall be protected in perpetuity by a binding legal document that is recorded with the deed upon review and approval by the County. The applicant has provided a draft copy of the deed which will convey the Conservation Space to the third party (homeowners association) and has included a draft copy of the Declarations of Covenants and Restrictions. Prior to final plat recordation, the county attorney shall review and approve the form of the Management Plan, the Declaration of Covenants and Restrictions, and the deed for the Conservation Space.

**Community Meeting:** A community meeting was held on May 22, 2019 at Opus Financial Advisors and several people attended the meeting. Items/issues discussed included high speed internet, septic fields close to Emily Lane, resisting stub out to Emily Lane, wells affecting the water table, larger buffer between resident(s) on Emily Lane and Lots 24 and 25, no natural area between Lots 11 and 12, and no construction traffic on Emily Lane. The developer provided responses in the community meeting report and noted they will contact AT&T and/or Spectrum for high speed internet, no connection to Emily Lane, moved the two proposed cul-de-sacs approximately 100 feet away from the common line with Emily Lane residents, propose a community well instead of individual wells, removed the common natural space access from the proposed cul-de-sac (Ivy Ridge Road), construction vehicles won't be using Emily Lane, and no trespassing signs can be posted.

**Technical Review Committee:** The TRC met on August 14, 2019 to review the First Plat submittal and the applicant/developer was present. Discussion items included stormwater ponds need to connect to public right-of-way, will Lots 1, 1A, 3, and 3A be connected, will there be amenities, and cul-de-sac radius.

**Septic:** A soils report and map were submitted to Thomas Boyce, Chatham County Environmental Health, LSS, REHS, Chatham County Environmental Health, for review. Mr. Boyce indicated that the report and map were adequate for a First Plat review. The information provided indicated that adequate soils are available for the proposed

number of lots and a more detailed analysis will be conducted prior to submittal of the final plat.

**Water:** County water is not available. A community well is proposed.

**Road Names:** The road names Ivy Ridge Road, Elm Tree Court, and Black Bear Court have been reviewed and reserved by Chatham County Emergency Operations Office as acceptable for submittal to the Board of Commissioners for approval.

**Water Features:** A riparian buffer report, dated August 22, 2018 was prepared by Stephen Ball, RF, PWS, and submitted to Drew Blake, Chatham County Watershed Protection Department, Senior Watershed Inspector for review. Mr. Blake and Mr. Ball completed an on-site riparian buffer review on September 10, 2018 to verify the consultant's findings and a confirmation letter was provided. Two (2) intermittent streams, two (2) perennial streams, and four (4) wetlands were located on the properties. An approved Jurisdictional Determination dated November 28, 2018 is also included in the application booklet.

**Lot size/ Use:** The conservation subdivision option allows for greater flexibility in lot size and dimensional requirements (see Section 7.7K of the Subdivision Regulations for more detail). Lot sizes ranging from .75 to 1.25 acres. There are no amenities and one area designated for a mail kiosk in Phase 1. Residential lot setbacks will be the minimum allowed by the Subdivision Ordinance. The minimum setbacks are 5' from the front property line and the minimum required by NC State Building Code for the sides. This will provide the developer greater flexibility in laying out the lots once the more detailed soils analysis is complete.

**Phasing:** None

**Stormwater and Erosion Control:** One stormwater pond is proposed and will be placed in open space. 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. The Chatham County Watershed Protection Department will issue the stormwater and erosion control permits for the entire project.

**Site Visit:** Planning Department staff and various Board members attended site visits on, August 20 and 22, 2019. Warren Mitchell and Wesley Lloyd were present to walk the property with staff and Board members and discuss the project. Areas of the property viewed included streams, wetlands, center line of the proposed road alignment, and conservation areas. Pictures of the site visit can be viewed on the Planning Department webpage at [www.chathamnc.org/planning](http://www.chathamnc.org/planning), Rezoning and Subdivision Cases, 2019.

**Planning Board:**

The Planning Board met on September 3, 2019 to review the request. Warren Mitchell, P.E. and Wesley Lloyd, applicant, were present to answer questions. Also, present were an adjacent property owner. The staff report was provided followed by the Public Hearing required in the Subdivision Regulations, Section 5.2C(4).

Mr. Richard Paar spoke and stated that his property adjoins Morgan Ridge Conservation Subdivision Phase 2 on the southern boundary of the proposed subdivision. Mr. Paar's concerns were privacy and serenity of the rural area would be disturbed, potential negative impacts to ground water with 52 lots, the proposed cul-de-sacs approximately 75' and 125' from Emily Lane, Lot 24 septic field adjacent his property, and homes in the proposed subdivision being within 300' of his property line. He requested a 150' natural buffer to be along the southern border the proposed subdivision.

There were no additional speakers and the public hearing was closed. There were several issues/questions discussed by the Planning Board. Board members discussed Conservation Subdivision guideline requirements, having staff from the North Carolina Natural Heritage Program to visit the property, if there was a buffer by Mr. Paar's property, if the proposed 60' right-of-way could be reduced to a smaller private road, will Lot 24 septic area be totally cleared, add connectivity between the proposed natural space adjacent to Mr. Paar's property, and what's the benefit to the water table by having a community well.

After the Planning Board discussion they voted 10-0 to postpone discussion until the October 1, 2019 meeting to allow the developer time to have the property evaluated by North Carolina Natural Heritage Program staff, check with NCDOT on a smaller road width, and address the septic field location of Lot 24.

The Planning Board resumed discussion on October 1, 2019 and the project engineer, Warren Mitchell provided a revised layout. Mr. Mitchell met with Mike Schafale with the North Carolina Natural Heritage Program. Mr. Schafale visited the proposed subdivision site on September 11, 2019. He discovered mature Dry Basic Oak-Hickory Forest, southern shagbark hickory, post oak, white oak, upland depression swamp, small patches of Dry Oak-Hickory Forest and Dry-Mesic Oak-Hickory Forest.

Mr. Mitchell revised the layout of the proposed project. The revised layout has connectivity to natural space, additional open space, an additional stormwater pond, a community gathering spot with an informational board about the conservation area preserving the Dry Basic-Oak Hickory Forest, and shows the removal of the septic adjacent to Paar's property (parcel 75528). Mr. Mitchell spoke with soil scientist Jason

Hall about the septic field. Mr. Hall suggested to install the initial septic field closer to the homes on Lots 22-24 and leave the repair septic field closer to the Paar's property because the repair fields are usually never used. This would allow the lot to stay wooded.

Jennifer Britt, NCDOT Assistant District Supervisor, provided comments through an email dated September 10, 2019 stating that the public rights-of-way that were approved with smaller widths have caused maintenance problems for NCDOT and the NCDOT design manual is being revised to delete smaller widths. The minimum that is allowed is a 20' wide roadway and 60' wide right-of-way.

Based on the revised layout that has been provided by the project engineer, the following condition that was previously requested by staff has been deleted - "The Final Plat shall provide a 20' wide private easement to from the public right-of-way to the stormwater pond."

Mr. Richard Paar spoke and stated his property is located at the southern border of Morgan Ridge Conservation Subdivision Phase 2 and he spoke at the September 3, 2019 meeting. Mr. Paar stated at the last meeting that he was in opposition to the proposed plan since most of the home sites are in proximity of Emily Lane where he resides and especially the lots platted near his home. Under that proposal, there could have been seven homes within 300' of his property line, therefore he requested a 150' wide natural tree buffer between the property lines. Mr. Paar stated he was disappointed the revised plans shows a 25' wide buffer from the property line and not the 150' buffer he requested; however, the revised plans significantly reduces the number of home sites in close proximity to his property line and for this reason, he supports the revised plans.

The Planning Board discussion included the Board thanking Mr. Mitchell for his willingness to adjust the site plan based on Mr. Schafale's findings, placing a 150' wide buffer on the upland depression swamp, and that the proposed site is a highly significant site because all the Dry-Basic Hickory forest in Piedmont NC. The Planning Board asked to have the 9.4 acres of Dry-Basic Hickory forest not be shown on the final plat because it doesn't represent the full extent of the forest.

**How does this relate to the Comprehensive Plan:**

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 single family detached lots and attached units with overall very low density, greenway trails, and passive recreation areas.

**Recommendation:**

The Planning Department and Planning Board by 8-1-1 vote recommends granting approval of the road names Ivy Ridge Road, Elm Tree Court, and Black Bear Court and granting approval of subdivision First Plat for **Morgan Ridge Conservation Subdivision Phase 2** with the following conditions:

1. The Final Plat shall show the removal of the Dry-Basic Oak-Hickory forest labeled 9.4 acres.
2. The Final Plat shall show a 150' wide buffer along the Upland Depression Swamp.
3. Approval of the First Plat shall be valid for a period of twelve (12) months following the date of approval by the Board of Commissioners and the Construction Plan approval shall be valid for a period of twenty-four (24) months from the date of approval by the Technical Review Committee or Board of Commissioners.
4. Prior to final plat recordation, the county attorney shall review and approve the form of the Management Plan, the Declaration of Covenants and Restrictions, and the deed for the Conservation Space.