

MINUTES
CHATHAM COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING
SEPTEMBER 19, 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 September 19, 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; and Clerk to the Board, Sandra B. Sublett

The Chairman reconvened the previous night’s meeting at 6:03 PM.

Public Hearing Request to Rezone Acreage to Conditional Use B-1 Business District: Public hearing to receive public comments on a request by Lee-Moore Oil Company to rezone a 63.3 acre tract (currently 19.66 acres are zoned B-1 Business and 43.64 acres are zoned RA-40 residential Agricultural) into a 29.4 acre Conditional Use B-1 Business District and a 33.9 acre RA-40 Residential Agricultural District located off US #15-501 North, south of the Chatham/Orange County line, Williams Township

Patrick Bradshaw, 128 Hillsboro Street, Pittsboro, NC, stated that he represents Lee-Moore Oil Company; that approximately thirty acres of the tract is already zoned B-1 and the balance is zoned RA-40; that Lee-Moore could develop the existing B-1 portion of this property without seeking any zoning approval; that the result would be multiple business uses directly on US #15-501 with only 50’ front yard and 20’ side and rear yard setbacks; that there would be no opportunity for site plan review by County officials and no required buffers, landscaping or lighting controls; that there would be just as much impervious surface, just as much runoff and nearly as much wastewater disposal; that this rezoning will allow Lee-Moore to create a better designed shopping center and the reconfigured business district will be able to accommodate more generous buffering, landscaping and lighting elements than otherwise would be possible; that the fact that thirty acres of this property has been zoned B-1 general business for 32 years supports the conclusion that the site is appropriate for business use; that almost all the property on the east side of US #15-501 from the County line to south of Mann’s Chapel Road is zoned for or is being used for business purposes; that there are also business, office, institutional and industrial uses and zoning on the west side of US #15-501 on Old Lystra Road and on the Orange County side of the County line; that the creation of the requested conditional use district is consistent with the existing conditions in the area; that the creation of the requested district is also consistent with the County Land Use Plan which calls for guiding commercial development to suitable locations with appropriate design; that this location has been deemed by the County to be suitable for commercial development for over 32 years; that the conditional use process allows input by the county and the public into the design of the property and the reconfiguration will promote better design; that the property is in or near an economic development center as specified on the draft map that was not adopted with the Land Use Plan, it is located along a major highway in a location that might be served by transit in the future and the rezoning will allow most of the traffic to be drawn off the main thoroughfare; and that they appreciate the Board’s consideration of the zoning district change and will present details of the proposed project in the quasi-judicial section of the hearing.

Joyce Cotton, 1221 North Pea Ridge Road, Pittsboro, NC, stated that she is in favor of the request; that she owns property within ¼ mile of the request; that as a retired vocational teacher, she is in favor of this request because she is concerned about the lack of job opportunities in Chatham County; that she is tired of going outside of the County to shop; that it would bring in much needed tax revenue; and

that it gives the County some control over the appearance and the buffers.

Elaine Foster, 500 Meadow Run Drive, Chapel Hill, NC, stated that she owns property that backs up to the proposed project; that there are many beautiful homes near the development; that the property values will fall immediately; that there may be a risk to well water for homes in the area; that she has done a survey of similar neighborhoods in Wake County that back up to big box stores and found that none of them were located in the middle of a residential development; that each of them was located in a business area; that she was not opposed to development, but that she was opposed to development without adequate thought put into it.

Beverly Murdock, 288 Luna Lane, Chapel Hill, NC, stated that this application has a number of problems and errors; that it was submitted late; that the late submission cost the affected citizens valuable time needed for investigating and understanding the impact of this rezoning; that the application states that signs giving notice of the public hearing were to be posted; that only one sign was posted and it was not visible part of the time after the application was submitted; that the existing B-1 zone is large enough already to make reasonable business use of the property; that the traffic increase from the shopping center mentioned, including the resulting increase in pollution and the potential for more traffic accidents, does not benefit nearby property owners or the public at large; that a shopping center is not in the best interest of anyone who will work there because retail jobs are typically low-quality, low-paying jobs; that if this land is rezoned, an even larger amount of land will be cleared increasing the likelihood of stormwater runoff and water quality problems in the watershed, neither of which benefit nearby property owners or the public at large; that creating the requested district will not be consistent with the existing conditions in the area, as the application states because the created business district will be almost completely surrounded by residential areas; that the application is inconsistent with the Land Use Plan in that the application refers to balanced growth, designed appropriately, and does not encourage shopping centers; that the application mentions compact communities; that the Land Use Plan says that tourism is an important component of the County's economy; and that because the application was submitted late and contains errors and is not consistent with the Land Use Plan, it needs to be reworked and resubmitted at a later time.

Nat Smith, 102 Misty Pines Place, Carrboro, NC, stated that he represents Bob and Beverly Murdock; that he asked that the applicant rework the application; that there is a difference in the amount of acreage zoned B-1; and that the use of the RA-40 area for wastewater run-off would not be an appropriate usage. He asked that the Board defer any decision on this application until such time as the applicant corrects or addresses technical and substantive errors and issues in the applications.

Bob Murdock, 288 Luna Lane, Chapel Hill, NC, stated that he opposes the Lee-Moore Oil application to increase the business zone by over 50% and to reconfigure the shape of the business zone in such a way as to be even more intrusive into the surrounding neighborhoods; that the application claims adherence to the Land Use Plan and that rezoning the 30 acres in the proposed configuration will be to the benefit of the applicant, the surrounding property owners, and the community at large; that he challenges its claim to adhere to the Land Use Plan and that it benefits anyone other than the applicant; that the application makes a case for being a part of an economic development center which is encouraged by the Land Use Plan; that the Land Use Plan actually identified an economic center to the south of the subject property that is in no way connected to the subject property; that economic development centers are supposed to be planned to enhance economic growth in the community; that the application will actually compete directly with the economic center to the south, threatening those businesses; that in case the claim of economic development center does not work, the application makes a case for compact community, suggesting that in this case, the residences are already there and the applicant is simply adding the shops; that this sounds like a big stretch; that Southern Village and Meadowmont are carefully considered and laid out; that he had the option to live in a compact community but chose to live away from shops and in a less densely populated area; that they bought their property in Chatham and gladly paid the County impact fee because Chatham County had the potential to be a model community for thoughtful and well-planned development; that the applicant wants everyone to believe they are generously adhering to the Land Use Plan; that the plan begins with a vision; that if the applicant and

everyone wants the Land Use Plan to truly be the standard, then the property can be well-integrated into the community, assuring the well-being desired by all. He asked the Board to deny this rezoning request.

David Keesee, 360 Luna Lane, Chapel Hill, NC, stated that they purchased their property after careful consideration looking for property and evaluating the merits and risks of various tracts on which they planned to build a new home; that for an individual purchase of property for a home is a major investment; that they treated their investment in this property as such an investment and thought they did their homework; that they investigated the surrounding properties, reviewed the covenants in Arbor Lea and Sun Forest subdivisions and looked closely at the zoning of the Truby Proctor (now Lee-Moore Oil) tract; that they knew that since the property was relatively close to Chapel Hill, there would be development around them; that from the research; that the configuration change puts the commercial development much closer to residential development in the area; that the rezoning application increases the size of the B-1 commercial portion of this tract and changes the configuration of the B-1 district in such a way as to move the siting of the commercial development much closer to their home and to many of their neighbors homes; that it is an unacceptable breach of the zoning process to change the zoning on a parcel when surrounding homeowners have made their biggest lifetime investment based on the County's classification; and that this request must be denied and the County must keep its commitment to the adjacent homeowners as to how the property next to them will be developed.

Loyse Hurley, 16 Matchwood, Pittsboro, NC, stated that this request is incomplete on several grounds; that it does not specify which B-1 uses would be used; that the developer now says that only ten acres are planned for rezoning; that what they are not telling the Board is that they also plan to use 33 acres, not rezoned, as part of their wastewater treatment; that it is alleged that this application meets the conditions of the Land Use Plan; that this rezoning would add to all the other commercial enterprises along Highway #15-501; that the Land Use Plan promotes clusters of commercial development with rural areas in between them, not wall-to-wall strip shopping centers along this roadway; that rezoning this section of the property in order to accommodate a large shopping center is basically unfair to the current residents of the surrounding properties; that these are citizens who have purchased and invested in property based upon the inherent promise of this County to maintain a residential/agricultural property around them; that the 43 acres around these properties were expected to remain as currently zoned and this proposal interferes with the basic property rights of these citizens; that these are residents who have a concern about the environment as evidenced by the covenants they have signed; that these are residents who are tolerant and have not objected to 20 acres already zoned B-1; that to rezone any additional acreage in order to accommodate a bigger shopping center is a slap in the face to these residents; that all these exceptions to the County zoning ordinances are, in effect negating the ordinance requirements and rapidly turning the zoned portions of this county into unzoned areas; that the constant acceding to developer's wishes and total blind faith in whatever developer wants or says is heresy; that it does not provide any protections to the environment, property values or the future; that zoning ordinances have been enacted; that should be followed; and that these citizens made life-investment decisions based upon them.

Mark Barroso, 110 Persimmon Hill Road, NC, stated that he represents Chatham First; that the Board of Commissioners had urged developers to meet with neighboring property owners; that Kirk Bradley has rebuffed all attempts to talk with neighbors; that the application is woefully incomplete; that the contention is that traffic will not be impacted, that jobs and materials will come from Chatham County; that this property drains into Orange County and they should know what is coming; that for many people, this will be their first impression of Chatham County; and that he asks the Board of Commissioners to encourage Kirk Bradley to work with the neighbors.

Susan H. Keesee, 360 Luna Lane, Chapel Hill, NC, stated that she is an adjoining property owner; that when they purchased their land in 1998, she and her husband were fully aware that the adjacent 63 acre tract included slightly less than 20 acres zoned B-1 commercial along US Highway #15-501; that since the entire tract is within a WS-IV watershed district, they learned from the Chatham County Planning Department that no more than 36% would be paved or be otherwise covered by impervious

surfaces; that since the suitable soils for septic tanks on the 43 RA-40 acres are similar to abutting homeowner lots which average about 6 ½ acres each, between six and seven houses could be built behind the portion zoned B-1; that the rezoning request sounds like just ten acres, but the way the plan is configured, essentially the entire 63 acre tract is being used as commercial or to support it by using the remaining RA-40 land as septic fields for the B-1 land; that this is inconsistent with the purpose of zoning and the request should be denied; that while she has no objection to the landowner developing the 19.66 acres of B-1 land fronting Highway #15-501, she strongly objects to the assertion that converting the additional ten acres to commercial and reconfiguring it to be closer to them is of any benefit to anyone but the applicant himself; that it is not consistent with the development of the surrounding properties and is like allowing a disease to be injected into a healthy body; She asked the Board to deny the request to rezone.

Dee Reid, 590 Old Goldston Road, Pittsboro, NC, stated that she would like to address the traffic impact from the perspective of a commuter that deals with it every day and specifically what is missing from the traffic engineer's report. She stated that there are at least 15,000 eastern Chatham County residents who commute to work every day; that about 7,500 are heading north and east to jobs outside the County; that at least 3,000 are driving regularly past the proposed shopping center site at the County line; that that's a lot of traffic; that she lives with this on a daily basis and has spent twenty years commuting Highway #15-501 to work in Durham and Chapel Hill; that the traffic engineer's report bears no resemblance to what she encounters on her daily commute; that the traffic analysis describes the property north of Lee Moore Oil Company as mostly undeveloped and scattered residential use; that they must have forgotten Southern Village; that the report, written in February, 2006, speaks of widening US Highway #15-501 which has already been done; that the engineer's report says that future traffic trips were calculated using projections prepared for the US Highway #15-501 widening which means that their calculations are already seriously out-of-date; that the traffic engineer did take an actual count of the number of cars passing through the US Highway #15-501/Smith Level Road intersection, but it was taken on January 3-4, 2006 during one of the slowest commuting weeks of the year due to the winter holidays; that the report is incomplete, lacks credibility, and is an insult to the thousands of commuters who know too well what rush hour traffic is really like at the County line and what it is likely to become when all the new developments are open; that she would like a real traffic study done based on actual traffic, that the Board visit the proposed shopping center site during morning and evening rush hour traffic, and that they not approve any major rezoning requests or conditional use permits in the US Highway #15-501 corridor until a Highway Corridor Plan is developed.

Michael Winslow, 385 Meadow Run Drive, Chapel Hill, NC, stated that the proposal on the table presents a number of questions about the impact on the surrounding neighborhoods; that he wants the County to scrutinize this development carefully and gather more information for study and analysis before approving the proposal; that there is potential for major traffic congestion and the pollution of ground water; that the lots in Arbor Lea are large and were developed this way to allow for the difficulty in getting the land to perk, to provide adequate space to locate approved wells and septic; that the original approvals did not come easily, as it took a year and a half working with Chatham County; that he expects the County to apply equal scrutiny to this proposed adjacent development considering the potential negative impact on the quality of surrounding water from parking lot runoff and seepage; that the "welcome signs" portray an idyllic scene in Chatham County but it is in jeopardy with developments like this; and that this issue is for the safety of the environment.

Jim Foster, 500 Meadow Run Drive, Chapel Hill, NC, stated that he and his wife enjoy living here and being in Chatham County; that the portion of this land directly behind their home is zoned residential/agricultural; that the 19.66 acre portion of this land that is zoned commercial is about 900 feet from their property; that current zoning promises that their home will be protected against severe intrusion by commercial development; that they made one of the most important decisions of their life, buying their land and building their home, based on this promise; that they love most the exceptionally beautiful natural environment with gently rolling fields, meandering streams, and substantial forest; that this would all be damaged severely by the proposed rezoning; that the proposed rezoning not only increases the commercial area by 50%, but reconfigures the commercial area such that it extends deeply into the land,

making its southeastern corner about 200 feet from their home; that the lights from the building and parking lot and the noise from the loading docks, dumpsters, loudspeakers, roof air conditioning would be a dramatic intrusion into their life; that the proposed detention pond, which is likely much of the time to be a stagnant breeding pool for mosquitoes is only 100 feet from their property line and their well; that the application provides no solid data to assure that their well would be safe from pollution by sewage and potential carcinogens; and that he strongly urges that the current zoning be honored and the application for rezoning be denied.

Allison Weakley, 311 Boothe Hill Road, Chapel Hill, NC, stated that she is opposed to the rezoning for a number of reasons; that she was surprised to learn that the map was significantly different than the one she had reviewed on the County web site; that the existing conditions map shows the whole lower section was not part of the current rezoned area; that she would like for Mr. Bradshaw to further explain the impact; that under current zoning, the foot print of the development is limited to twenty acres; that an extra ten acres is allowed with the rezoning; that with rezoning the minimum requirements would not change; that stormwater would still need to be dealt with under current zoning, otherwise downstream flooding and sedimentation would occur; that based on her quick analysis, current rezoning may prevent some significant impact of the creeks; that this site drains more into Orange County but comes back into Chatham County in the New Hope arm of Jordan Lake; that the impacts from this site will be felt by residents of Chatham County via the water supply; and that she was amazed by the increase in traffic, most especially the construction and dump truck traffic.

Mr. Bradshaw answered questions from citizens and the Board.

The Chairman closed the public hearing.

BREAK

The Chairman called for a five-minute break.

The Chairman administered the oath to those in attendance, not previously sworn-in at the September 18, 2006 Board of Commissioners' meeting, who wished to make public comments.

Public Hearing Request for a Conditional Use B-1 Business Permit: Public hearing to receive public comments on a request by Lee-Moore Oil Company for a Conditional Use B-1 Business Permit for a home improvement center and additional retail and shops located off US #15-501 North, south of the Chatham/Orange County line, Williams Township, on 29.4 acres of a 63.3-acre tract

Patrick Bradshaw, attorney for the applicant, stated that Lee Moore Oil Company is asking for a rezoning request for a home improvement center and other retail shops; that the working title is County Line Plaza; that it will make a beneficial economic impact on Chatham County; that there are significant buffering and lighting controls; that he refers to comments made earlier with regard to the Land Use Plan; that Lee Moore Oil Company could develop this existing property with a big box store and up to four outparcels as it is zoned currently; that the only site design restrictions would be less restrictive than what is proposed; that demands for County services would be minimal; and that this would not require infrastructure improvements. He presented a Detailed Soil/Site Evaluation and Ksat Testing and asked that it be made a part of the official record.

Mark Ashness, stated that there are currently eight acres along US Highway #15-501 that could have easily accommodated three outparcels; that the site is on a major road corridor; that it is heavily wooded; that the parking field has alternating planting islands; that they have expanded buffers around the property; that there is a 75' buffer to the south; that to the north there is a 50' buffer; that along US Highway #15-501 there is a 75' landscape buffer; that the parking field is 300' from lot lines of residents in the area; that they met with the Appearance Commission and they exceed all the current Chatham County requirements; that they plan to fully comply with the draft lighting standards; that the signage would be in compliance with the Sign Ordinance; that this property is in the WS-IV watershed; that

stormwater flow is easterly and then northerly; that the impervious coverage is just under 34% coverage; that nothing of environmental significance was noted on the property; that the US Army Corps of Engineers has signed off on the delineated wetland proposal; that there will be at least three stormwater retention ponds; that there will be a 12-inch water line run off of the 16-inch line on the western side of US Highway #15-501; and that they are proposing a wastewater drip system.

- Commissioner Barnes questioned the correct acreage.

- **Ramey Kemp**, stated that the study included peak hours using NCDOT traffic projections and that commuters to Chapel Hill should not be impacted by retail development in the morning rush.

Sally Kost of the Planning Board asked Mr. Kemp questions regarding the traffic study including the alignment of the different intersections.

- **Patrick Bradshaw** answered Mrs. Kost question regarding the intersection alignment stating that it was the landowner's strong preference to have the driveways aligned as Mrs. Kost suggested, but that the NCDOT would not allow it.

- **Bill Ford**, who performed a market analysis, stated that the home improvement industry is dominated by two stores, Lowe's and Home Depot; that the industry is booming in appliances and home do-it-yourselfers; that home improvement stores are marketing to different customers than they did thirty years ago; that projected growth in the trade area is 6%; that the influence of UNC-Chapel Hill will increase the traffic through the site; and that this site can support a retail project of this size.

- **Lucy Gallo** stated that her firm conducted the economic impact study; that there will be 314 direct jobs produced from the retail operation; that an additional 46 indirect jobs will be created based on indirect and induced economic activity of the project; that the tax base will be approximately \$42 million; that it will produce \$250,000 in additional annual tax revenue; that home improvement stores in the South in similarly sized developments would produce \$73 million in sales; that it would generate \$600,000 in additional sales tax revenue; that it would create \$170,000 in additional cost to the County; and that the bottom line impact is a revenue of \$863,000 annually.

- **Kirk Bradley**, 30069 Benbury, Chapel Hill, NC, stated that he has been a resident of Chatham County for fifteen years; that he is the president of the Lee Moore Oil Company; that his family has waited for thirty years to develop this property; that his family has a record of producing high quality development and positive economic impact in Chatham County; that the 2006 real property tax valuation of the Governors Club Planned Unit Development, which they have developed since 1988, is over \$768,000.00 and occupies less than one-half of one percent of Chatham County's land area; that the Governors Club community constitutes over 13% of the total tax value of real property in Chatham County; and that they are committed to doing this project well. He stated that the engineers, environmental scientists, traffic engineers and economic analysts that they have assembled for this project are among the very best that are available in the State of North Carolina; that it will be an economic boon to Chatham County and it will improve the quality of life of the people of Chatham County and surrounding areas; and that he hopes the Board of Commissioners will look favorably on their request.

- **Patrick Bradshaw**, stated that, on behalf of Lee Moore Oil Company, he respectfully submits that the evidence provided in the application and that this hearing is sufficient to support the five necessary findings under the Chatham County Zoning Ordinance. He stated that the Lee Moore project would enhance the health, safety, and welfare of the citizens of Chatham County by providing a service for which there is a high demand, at a sensible location with a design that will have less impact on the joint property owners than the development of the property under its existing zoning. He respectfully requested that the proposed conditional use permit be granted. He also asked, so that he would not have to interrupt other witnesses, he would like to object, for the record, to the testimony in this portion of the hearing of any witnesses who lack standing to testify under applicable law and any opinions that are offered without adequate foundation under applicable law. He also reserved the right to call witnesses to

rebut testimony offered by others in the remainder of the hearing.

John McPhaul, 1 Winter Drive, Chapel Hill, NC, asked that as a condition of approval of their site plan, that the Board include a “stub out” from their project; that he has spoken with Mr. Bradley who has no problem with giving them access; that it is their thought that since their home is sandwiched between the UNC parking lot and this new B-1 project, that the most rational future use for this property will be commercial; that to this extent, they feel that for the sake of safety and congestion, access through the Lee-Moore Oil property only makes good common sense. He thanked the Board for their consideration and time.

Susan H. Keesee, 360 Luna Lane, Chapel Hill, NC, stated that she is an adjacent landowner; that she takes exception that the proposal is consistent with existing ordinances and land use plan; that essential research data should be rewritten; that her most major concern is the inadequate drainage and stormwater runoff plan which challenges Finding #5; that there needs to be evidence to support the claims of the developer; and that she questions the adequacy of the stormwater management plan with regard to heavy rain and hurricanes. She presented two pictures from her backyard and the affect of a two-inch rain in January stating that these areas are now well-vegetated; that good stewardship practices should be included; that she participates in the park and ride program currently and will lead to unacceptable wait levels.

Loyse Hurley, 16 Matchwood, Pittsboro, NC, stated that she is representing CCEC; that they were asked by the Murdochs to review the application; that this application is fatally flawed; that the traffic assessment is a sham; that it is not current and is based upon ten year old data and doesn't include the completion of the US Highway #15-501 widening project; that the application and the traffic assessment appear to be unrelated; that she wonders where the sit-down restaurant, the twenty pump gas station, the fast food restaurant and the residential development listed in the application are located; that all of the discrepancies are based upon another concept of this commercial development and all impact any traffic flow estimates; that the elimination of these might even reduce the traffic impact, but how is anyone to know from the submission; that the study was based on the 1996 DOT background data before approval of all the major developments in the area; that they admit to the report being incomplete and they agree; that it translates into a major traffic jam; that all of this is based upon old data and the wrong description of the proposal; that Lee Oil Company and the DOT entered into some type of a land swap about the driveway; that she asks what good is a shopping center if one can't get into it; that other aspects of this conditional use application include mention that this is in the compact community corridor; that they are proposing commercial stores but do not mention the location of any loading docks nor the times of day anticipated for deliveries; that they do mention the storage of hazardous materials but give no indication of how these materials will be stored or any indication of how the environment will be protected; that inside storage or covered storage is needed if bags or drums rupture; that the location is in the WS-IV-PA for Jordan Lake; that bio-filtration of the wastewater should be amended to include reductions of nitrogen and phosphorous because of the sensitivity of Jordan Lake to these elements; that there is an unnamed stream and wetlands on the property; that buffers for these areas are not addressed; that three stormwater retention ponds are mentioned; that unusual rain events are mentioned but not defined; that the Board needs more information to meet the five findings for this application and should request additional information before forwarding it to the already over-burdened Planning Board.

Beverly Murdock, 288 Luna Lane, Chapel Hill, NC, stated that the application was submitted late; that the notice for the hearing stated that it was for 29.4 acres when the application describes the usage of the entire 63.3 acre tract belonging to Lee Moore Oil; that the application states that sign giving notice of the public hearing were to be posted but only one sign was posted and was not visible part of the time after the application was submitted; that elevations of the completed project were not provided with the application making it impossible to determine all the impacts this project will have on surrounding and nearby properties; that the outparcel usage and the tenants for this project are not identified in the application; that without this information, affected parties cannot determine the impacts of this project; that the application fails on Finding #1 because the permitted RA-40 uses do not include drip fields and detention ponds for an adjacent business project which violates the Zoning Ordinance; that the application

fails on Finding #2 because another home improvement store is not needed; that the application fails on Finding #3 because the applicant has not provided adequate information that the septic drip fields will not affect ground water, the security of the neighborhood is in question, the amount of traffic has been inadequately defined, the noise has not been adequately addressed, the lighting from signs and other lights for this project are not defined, buffering needs to be addressed, the project should adhere to the Land Use Plan, environmental restrictions should be imposed, and hours of operation should be restricted; that the application fails on Finding #4 because the impervious surface calculation must be based on the B-1 district only; that the project is inconsistent with the Land Use Plan; that the application fails on Finding #5 because the Land Use Plan sites that alternative septic systems such as the proposed drip fields are undesirable, verification that the stormwater detention ponds are the best management practice, that the elevation of the project has not been stated but looks like it will be higher than many of the surrounding properties and these properties will be subjected to large amounts of runoff, particularly because so many trees will need to be removed for the project; that they want information about the pollutants that will be in the runoff from parking areas, driveways, and rooftops; and that because of the errors, misstatements, and missing information, this application must be researched, reworked, and resubmitted at a later time.

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BREAK

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The Chairman called for a five-minute break

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Halford House, 611 Vickers Road, Chapel Hill, NC, stated that he is speaking on behalf of adjoining property owners; that he is opposed to the application as submitted because the application is incomplete based on the omission of critical information for required items and the information for required items omitted in the application are critical since adjoining properties down slope and downstream of the proposed project have already received damage from storm water runoff even though the proposed project site has not been recently disturbed; that the plan submitted is lacking major components and does not demonstrate how it is to function for adequate sanitation; that storm water runoff information is omitted which will detail all points of off site discharge with design techniques used and projected impacts on neighboring properties; that the plan does not show the design techniques used in enough detail to determine that stormwater runoff will be managed without significant impacts to the properties down slope and downstream; and that he recommends that the application as submitted be denied. A copy of the comments are attached hereto and by reference made a part hereof.

Ward Marotti, 1221 Corporation Parkway, Suite 100, Wake Forest, NC, stated that he is a biologist who is present on behalf of the Murdochs; that he completed a peer review of the natural heritage areas and endangered species; that no survey was conducted or cited for any species outside of Chatham County; that no evaluation was conducted for species without known and recorded populations (element occurrences) within three miles of the property boundary inside of Chatham County; that seasonal surveys and/or specific sampling techniques are necessary to accurately evaluate the presence or absence of many species, both plants and animals; that the mid to late summer evaluation was not appropriate; and that in his opinion, the evaluation of protected species is insufficient.

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Nat Smith, 102 Misty Pines Place, Carrboro, NC, an attorney representing the Murdochs, stated that there is no doubt that there will be a large commercial development on the western side of the development; that there is an alternative size store that is possible; that they can build on the existing lot without the rezoning; and that he questions where in the ordinance it states that RA-40 districts may be used for drip fields and wastewater fields.

David Keesee, 360 Luna Lane, Chapel Hill, NC, stated that he is an adjacent property owner; that he has reviewed the application and the related documentation by Lee Moore Oil Company and has found a number of flaws; that the application does not support Finding #2 in that there is little in the application that will enhance the lives of the residents of the area; that Finding #3 finds that the permit impairs the integrity or character of the surrounding or adjoining districts and will be detrimental to the health, safety, and welfare of the community; that Finding #4 finds that the requested permit will not be consistent with

the objectives of the Land Use Plan; that this plan should not be approved in its current form as it does not address a mix of uses and does not support Finding #4; that this plan has numerous fatal flaws; and that the application should be rejected as it fails to meet key findings of the conditional use permit requirements.

Jim Foster, 500 Meadow Run Drive, Chapel Hill, NC, stated that he is an adjacent home and landowner; that he opposes the granting of the Conditional Use Permit based largely on its failure to meet Finding #3; that the proposed Conditional Use Permit does drastically impair the integrity or character of the surrounding or adjoining districts; that the proposed Conditional Use Permit may well be detrimental to the health, safety, or welfare of the community, at least the portion of the community that he knows... his land and neighborhood; that failure to meet Finding #4 with regard to the impervious surface allowed, the application for the Conditional Use Permit is flagrantly deceptive; that the Conditional Use Permit application claims that only 33.75% of the project will be impervious surface, less than the 36% allowed; that this figure of 33.75% is not based on the 29.4 acres of the conditional use area; that instead, the applicants have used the entire area, 29.4 acres of the Conditional Use Permit plus the 33.9 acres of the adjoining RA-40 land, to calculate this 33.75%; that when only the conditional use area is used to calculate the impervious surface, the figure becomes approximately 73% which is a clear violation; that failure to meet Finding #5 is that the applicants fail to demonstrate that plans for drainage of water from parking lots provide adequate capacity to handle large rain events; that the detention ponds appear to be too small, raising the specter of downstream flooding during very heavy rain such as occurs during the increasingly frequent tropical storms that cross central North Carolina; that the applicants fail to address the need to remove toxic materials from the run-off from parking lots; that the applicants propose to use RA-40 land as an accessory for the commercial land in the conditional use area in the form of a septic drip field; that if in spite of the failures, the application is approved, he requests the following: 1) Shielding of all lights to prevent glare and upward radiation of light. 2) Prohibition of deliveries, emptying of dumpsters or other use of heavy or noisy equipment between the hours of 9 PM and 8 AM. 3) A locked gate preventing vehicular access to the rear of the store between 9 PM and 8 AM. 4) Prohibition of outside loudspeakers and employee use of loud radios or any other sound reproduction system. 5) Adequate baffling or muffling of noise of roof top equipment such as air conditioners. 6) A high security fence around the perimeter of the property, such as an 8 to 10 foot chain link fence with barbed or razor wire on top. 7) The proposed berm must be high enough, with adequate planting that is well maintained, to provide visual screening of the commercial area from surrounding residential area. 8) The drainage must be adequately studied to assure that the detention pond system is sufficient to prevent flooding. 9) An effective system must be in place to remove toxins from parking lot runoff.

Bob Murdock, 288 Luna Lane, Chapel Hill, NC, stated that he is an adjacent landowner; that he has spent a considerable amount of money getting the experts to speak on his behalf; that their wastewater and stormwater expert has reviewed the application; that he wants to reiterate that this is a major violation of several of the findings; that he wants to remind the Board that this is a major increase in size of the commercial property and a major intrusion into the surrounding neighborhoods, much greater than they had anticipated when they bought their properties; that the plan needs to address their concerns about light trespass, noise, security, contamination of their wells, erosion of their properties and the significant threat to the enjoyment of their properties; that the Board has heard from a number of people regarding these issues and he asked them to think about how their decision will affect the lives of so many who have entrusted in the Board their well-being.

Allison Weakley, 311 Boothe Hill Road, Chapel Hill, NC, stated that the information in the application is not adequate to determine if wastewater system is effective; that from her review of the application and supporting documents, she has found her main focus on Findings #3, #4, and #5; that Finding #3 states that 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 a number of her concerns relate to Finding #3 including soils and wastewater capacity, hazardous materials, stormwater management, sedimentation and erosion control, threatened and endangered species, stream and wetland buffers, and landscaping. **Soils and Wastewater Capacity:** She stated that she conducted a quick analysis of soils present on the Lee Moore Oil site on the Orange/Chatham County line just east of

US Highway #15-501 using the County soils data (USDA-NRCS 2006) and found that the majority of the soils present on the site are mapped as Helena sandy loam soils which are considered to have a very limited capacity for sewage disposal and have the potential for a seasonal high water table within depths of 1.5-2.5 feet; that other soil types found include Wedowee and Vance sandy loam soils which are present in the western and southern portions of the site; that according to USDA-NRCS (2006), the capacity for sewage disposal via septic absorption of the Helena and Vance soils is considered to be very limited and septic absorption on Wedowee is somewhat limited. **Hazardous Materials:** She stated that the Submission Materials Checklist for Conditional Use Permits specifically requires the applicant to identify the types and amounts of chemicals that will be utilized by the requested use and also asks that the applicant identify the potential for discharges or runoff of liquids that would pollute the surface and/or groundwater sources; that though the applicant claims that no tenants have been identified for any of the retail shops or outparcels other than a home improvement store, some of the supporting documents in the application refer to a 20-pump or 10-pump gas station; that the application fails to identify the potential for discharges or runoff of liquids that would pollute surface and/or groundwater and fails to address how toxic or hazardous materials will be stored; that without identifying potential hazardous materials and showing how potential impacts from hazardous materials will be avoided or mitigated. **Stormwater Management:** She stated that Finding #3 cannot be met; that polluted stormwater runoff is a major contributor to water degradation in North Carolina; that stormwater can carry fertilizer, oil, fuels, animal and human waste, metals and other contaminants; that this runoff contribute significantly to some of the leading causes for impairments to surface waters; that Wilson Creek drains north to its confluence with Morgan Creek in Orange County and Morgan Creek then drains to the New Hope Arm of Jordan Lake; that stormwater is an issue that needs to be addressed in Chatham County, especially given the land use changes occurring, particularly those that add significantly more impervious surface and potential pollution sources to the watersheds such as large parking lots and gas stations; and that the importance of stormwater management control practices cannot be underestimated. **Nutrient Pollution:** She stated that Jordan Lake is impaired as is the New Hope Arm of Jordan lake and the segment of Morgan Creek that extends to the lake; that Jordan Lake is considered a “Nutrient Sensitive Water” because high levels of nutrients are creating an imbalance and stimulating algal blooms in the lake; that these blooms can cause dissolved oxygen levels to drop sharply and may result in fish kills and taste, odor, and toxin problems in the lake; that these problems affect the primary drinking water supply; and that given the impairment of Morgan Creek and Jordan Lake already and the impact the Total Maximum Daily Loads (TMDL) regulations will have on development in Chatham in the near future, it’s important to be proactive in preventing further damage to the extent they can; that in addition to nutrient loading from stormwater runoff from this site, engine oils and gasoline from the parking area as well as from the potential gas station pose a significant pollution risk to surface and groundwater; and that an additional recommendation regarding hazardous materials, given that a home improvement store is proposed, is that pesticides, herbicides, and fertilizers should be kept under shelter to prevent runoff from reaching the stormwater ponds or any groundwater or surface water sources. **Low-Impact Development (LID) Stormwater Techniques:** Ms. Weakley stated that the stormwater management approach of placing control features in drainage ways is an antiquated approach and almost certain to create negative water quality impacts; that the approach bypasses the filtering capability of buffers and concentrates all treatment within a few large features subject to catastrophic failure, high cost, and maintenance. **Impervious Surface:** She stated that impervious surfaces cause increases in runoff volume, which can degrade water quality by damaging stream banks, contributing to sediment loads and other pollution and increasing the stream temperature; and that in the Morgan Creek watershed, impervious surface is likely to be the major cause of stream degradation. **Stormwater Management:** She stated that the information on stormwater management proposed for the County Line Plaza site is insufficient and should be carefully scrutinized to ensure the protection of water quality on site and downstream; that it is unclear how stormwater will reach these ponds, especially the pond located on the northern boundary of the site, across the creek from the actual impervious surface; that based on the information submitted, it is impossible for the County to determine if the size and location of the stormwater features are adequate and the projected impact on neighboring properties cannot be determined. **Sedimentation and Erosion Control:** She stated that it is important to note that one source of sediment is land disturbance during construction; that the site is currently predominately forested; that and assessment of impacts to adjoining properties cannot be made without information on erosion control. **Environmental Assessment:** She stated that the

applicant hired Soil & Environmental Consultants to conduct a records review of rare species known to occur with a three-mile radius and to determine the likelihood that these species occur within the boundaries of the proposed site. **Stream and Wetland Buffers:** She stated that the upper portions of the Wilson Creek sub-watershed, including this site, are relatively undeveloped and preliminary reconnaissance efforts of Tetra Tech indicate healthy conditions in the upper reaches of this watershed. **Landscape Plan:** She stated that though the map of the Landscape Plan notes that examples of landscape plant material have not yet been determined, the examples given include two plant species known to be invasive in North Carolina and in the Piedmont in particular.

Ms Weakley stated that a primary principal of the Land Use Plan is that land development and conservation will reflect balanced growth; that balanced growth means that new development is welcome and accommodated, but in ways that ensure that development is guided to be appropriate locations and designed appropriately for its setting; that there is no doubt that the proposed location is appropriate for commercial development; that the question is whether or not the proposed project is designed appropriately. She stated that she believes the application is insufficient to address environmental impacts, especially water quality impacts, and that grounds exist for denial; that it seems this application was rushed to meet a deadline; that there are numerous examples of information that is lacking; and that based on the application presented, Findings #3, #4, and #5 cannot be made. She asked that if the application is approved, she hopes the recommendations as follows will be strongly considered as conditions to the permit:

1. Require an Environmental Impact Assessment (EIA) be conducted by the applicant with appropriate peer review.
2. Require a minimum 100-foot vegetated stream buffer on all intermittent and perennial streams on site, as well as an adequate vegetated buffer for other wetlands. Ephemeral streams should also be buffered, as they serve as headwater streams and carry surface runoff into surface waters.
3. Require a minimum 50-foot undisturbed vegetated buffer around the headwaters of all streams on site. An undisturbed vegetated buffer will help ensure impacts to the streams at this location will be minimal.
4. Prohibit plants known to be invasive in the southeastern US and North Carolina from being used for reclamation and for buffer plantings.
5. Encourage the use of Low-Impact Stormwater (LID) design principles for this project by using a combination of stormwater features, not just wet detention ponds that would cause tremendous downstream flooding and pollution if they fail. No one best management practice should receive runoff from such large impervious surfaces.
6. Require that the quality and quantity of stormwater leaving the site after development shall be equal to or better than the quality and quantity of stormwater leaving the site after development shall be equal to or better than the quality and quantity of stormwater leaving the site before development. To enforce this condition, stormwater monitoring is strongly recommended.

A question and answered period ensued.

The Chairman closed the public hearing

ADJOURNMENT

Commissioner Emerson moved, seconded by Commissioner Outz, to adjourn the meeting. The motion carried five (5) to zero (0), and the meeting was adjourned at 10:18 PM.

Bunkey Morgan, Chairman

ATTEST:

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