

MINUTES
CHATHAM COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING
NOVEMBER 17, 2008

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 November 17, 2008.

Present: Chairman George Lucier; Vice Chair, Mike Cross; Commissioners Patrick Barnes, Carl Thompson, and Tom Vanderbeck; Assistant County Manager, Renee Paschal; County Attorney, Jep Rose; and Clerk to the Board, Sandra B. Sublett

INVOCATION AND PLEDGE OF ALLEGIANCE

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

CALL TO ORDER

The meeting was called to order by the Chairman at 6:05 PM.

AGENDA AND CONSENT AGENDA

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

The County Manager asked that a consideration of a change in meeting times be considered for the December 1, 2008 Board of Commissioners’ meeting times from 9:00 AM until 6:00 PM.

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

1. **Minutes:** Consideration of a request for approval of Board Minutes for regular meeting held November 03, 2008 and work session held November 03, 2008

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

2. **Tax Releases and Refunds:** Consideration of a request to approve tax releases and refunds, attached hereto and by reference made a part hereof.

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

3. **Funds Acceptance for Health Department:** Consideration of a request to accept donation funds in the amount of \$2,000 for Community Health Promotion & Advocacy

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

4. **Funds Acceptance for Health Department:** Consideration of a request to accept additional State funds in the amount of \$3,060 for the Breast & Cervical Cancer Control Program

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

5. **Crime Victims’ Services Grant Approval:** Consideration of a request to apply for a NC Governor’s Crime Commission – Crime Victims’ Services grant in the amount of \$300,000, application attached hereto and by reference made a part hereof.

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

6. **Chatham County Child Fatality Prevention Team Appointments:** Consideration of a request to appoint the following members to the Chatham County Child Fatality Prevention Team:

Carmen Coley, Community Member (Child Victim Services)
Joe Santiago, Law Enforcement Representative

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

7. **Pittsboro-Siler City CVB Advisory Committee Appointments:** Consideration of a request to appoint members to the Pittsboro-Siler City CVB Advisory Committee as follows:

Theresa Chiettini replaces Phoebe Fox (Lodging)
Cindy Poindexter replaces Jane Wrenn
Oscar Moncada replaces Patricia Perry

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

8. **Subdivision Final Plat Approval of “Windfall Creek, Phase VI”:** Consideration of a request by Contentnea Creek Development Company for subdivision final plat approval of “*Windfall Creek, Phase VI*”, consisting of 13 lots on 77.59 acres, located off Big Woods Road, SR #1716, New Hope Township

As per the Planning Department and Planning Board unanimous recommendation, final plat approval of “Windfall Creek, Phase VI” was granted with the following two (2) conditions:

1. The plat shall not be recorded until staff has received and approved the financial guarantee.
2. The final plat shall show a 20 foot wide utility easement along the common property line of Lots 62 and 63.

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

9. **Extension of Preliminary Plat Expiration:** Consideration of a request by James E. Dixon for a one-year extension of preliminary plat approval for *Fieldstone Subdivision* to extend final plat submittal deadline from April 15, 2009 to April 15, 2010

As per the Planning Department and Planning Board unanimous recommendation, a one-year extension of preliminary plat approval to extend the expiration date from April 15, 2009 to April 15, 2010.

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

- 9A. **Change of December 01, 2008 Board of Commissioners’ Meeting Time:** Consideration of a request to change the meeting time for the December 1, 2008 Board of Commissioners’ meeting from 9:00 AM to 6:00 PM

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

END OF CONSENT AGENDA

PUBLIC INPUT SESSION

Kathleen Hundley, 136 Rocky Falls, Sanford, NC, stated that she is a landowner with acreage and a permanent residence on the Rocky River in southeast Chatham County; that she is also President of Friends of the Rocky River (FORR) and board member of the Rocky River Heritage Foundation; that she speaks this evening representing both organization; that, in speaking on behalf of FORR on the request to approve a cemetery on land that was originally allocated for the Belmeade subdivision; that FORR urges the County

to require stream buffers of no less than 200 feet wide on each side of all perennial streams, 100 feet on each side of all intermittent streams, and 75 feet on each side of all ephemeral streams; that this buffer will serve to filter increased nitrogen and phosphorus from the river, both of which are an increasing problem in the Rocky River; that the natural filter provided by the buffers will reduce further in water quality, will reduce sediment into streams and the Rocky River, and will limit adverse pressures on aquatic life in the river and increase the opportunity for class "C" recreational activities in the river, as the Rocky is currently classified to do.

Ms. Hundley stated that secondly, the Rocky River Heritage Foundation would like to publicly thank the Board of Commissioners for their commitment in the support of efforts to improve water quality in the Rocky River that will provide a resource for the citizens of Chatham County; that they especially appreciate the allocation of funding for a water quality monitoring program proposed by Dr. John Fountain, Director of the NCSU Department of marine, Earth and Atmospheric Sciences; that the Rocky River Heritage Foundation will collaborate with the County by investing in the monitoring project and to seek to acquire other stakeholders and their investments sufficient for the cost of proposed restoration efforts. She thanked the Board for their time and recognition and support of the Rocky River Restoration Program.

RECOGNITION OF COUNTY COMMISSIONER

Chairman Lucier stated that this was Commissioner Barnes last official Board of Commissioners' meeting; that Mr. Barnes initially became involved in politics due to Cary's "inquisitive" nature; that he has been an ardent advocate for improving the County's subdivision and zoning regulations, protecting the environment, making certain that developments that come to Chatham County are to the benefit of the citizens and not the detriment; that he will have been a part of enacting some very significant amendments to the subdivision and zoning regulations, establishing a stormwater ordinance, making significant changes to soil erosion and sedimentation control ordinance; that he deserves a lot of credit for this in terms of his advocacy and his initiative in making sure that these things happen; that he is a contractor and has not hesitated to share his wisdom regarding things with which he is familiar; that he feels that everyone on the Board appreciates his wisdom he has imparted on numerous occasions while deliberating on various items; that on behalf of the Board of Commissioners for his service to Chatham County, his service to the County is very much appreciated.

Chairman Lucier presented an engraved plaque to Commissioner Barnes.

Commissioner Barnes stated that in the past when other commissioners have left office, he felt that they disappeared; that he does not intend to do so; that he intends to return to a front-row seat; that it has been a privilege and a pleasure to serve the citizens of the County; and that he has enjoyed working with County Staff.

BOARD OF COMMISSIONERS' MATTERS

Resolution Honoring the Board of Elections and Staff: Consideration of a request to adopt **Resolution Honoring the Board of Elections and Staff**

Chairman Lucier stated that the County has just had a historic election; that there was almost 80% voter turn-out; that two years ago, there were 36,000 registered voters in Chatham County; that this year there were 42,000 registered voters; that many of those registered at "One-Stop" Voting; that for early voting, there were 52% of the registered voters in Chatham County to vote early prior to election day; that there was across the country and heavy turn-out caused long lines, angry voters waiting hours to vote; that that did not happen in Chatham County; that the longest wait of which he was aware in the County was approximately ten minutes; that there was remarkably smooth and efficiently run election process; that that is due to the tremendous Board of Elections and most importantly, Dawn Stumpf, Elections Director, and her staff has been great.

Ms. Stumpf stated that Chatham County was number one in North Carolina in voter turn-out.

Commissioner Vanderbeck moved, seconded by Commissioner Thompson, to adopt **Resolution #2008-65 Honoring the Board of Elections and Staff**, attached hereto and by reference made a part hereof. The motion carried five (5) to zero (0).

Combining of Nursing Home Community Advisory Committee and Adult Care Home Community Advisory Committee: Consideration of a request to combine the Nursing Home Community Advisory Committee and the Adult Care Home Community Advisory Committee into one committee and to appoint volunteers to the combined Chatham County Nursing Home/Adult Care Home Community Advisory Committee

Angel Dennison, Council on Aging Director explained that two joint meetings of the Adult Care Home and Nursing Home Community Advisory Committees have been held wherein past and current members of the committees have met with new volunteers and staff of the Triangle J Area Agency on Aging and Ombudsman program to discuss the various roles and responsibilities of the parties and the committees; that current members and those seeking appointment today have voted to combine the committees, pending approval; that the current members seek appointment of the following volunteers for a one year term: Mrs. Naomi Minter, Mrs. Lisa Morris, Mrs. Kathy Jo Kemper, Mrs. Cheryl Robbins

She stated that replacing members retiring from committees are Mr. John Cooper, Mrs. Mary Lou Cooper, Mrs. Pat Harris, Mrs. Thelma Turner, Dr. Melvin Bruckstein, Mrs. Christine Degraffenreidt, and Ms. Angel Dennison and that Mrs. Christine Brooks passed away in June.

She stated that the combined committee will have twelve members; that this number was determined by the Triangle J COG Ombudsman based upon the number of assisted living facilities, nursing homes and family care homes in Chatham County; that each member will exercise the rights and responsibilities of both Nursing Home Committees and Adult Care Home Committees; that per GS 131d-31 (d) "Each committee member shall serve an initial term of one year. Any person reappointed to a second or subsequent term in the same county shall serve a two or three year term at the county commissioners' discretion to ensure staggered terms of office."; that committee members elect the committee chair; that Mr. John Cooper has agreed to fill this role for the joint committee until a new chair is elected or until December 31, 2008, whichever comes first; that the next training session (for new members) is scheduled for January 2009; that the members set forth for appointment have been made aware of the training.

Ms. Dennison stated that at the inception in 1983, the statutes provided for Commissioners to appoint to the committees those individuals nominated by a majority of the chief administrators of adult care homes in the county; that these members could comprise one-third of the committee; that current committee member positions have not been filled by chief administrators; that the Commissioners may choose to have current chief administrators notified at this time in order to allow them to nominate individuals for membership on the joint committee; that procedurally, the nominations would then be forwarded to the Commissioners for review; that historically, appointments in total have been allocated to the Commissioners; that the committee of twelve could be divided, with each commissioner appointing two members as vacancies occur; that until the question of membership(s) by a chief administrator of an adult care home is resolved, the number of current vacancies is not determined; that current members (those not resigning) of the individual committees who will serve on the combined committee have staggered terms; that these include Ms. Sandra Pickard, Ms. Lisa Hannah, Ms. Lillian Plummer, Ms. Bertha Bruton, and Ms. Evelyn Kid; and that these five current members, and the addition of the four nominations, would bring membership to nine, leaving three vacancies.

Commissioner Thompson moved, seconded by Commissioner Vanderbeck, to approve combining the committees pending approval by the Assistant Secretary for Aging, Department of Health and Human Services, to approve an appeal to the Assistant Secretary for Aging, Department of Health and Human Services to combine the committees, and to appoint volunteers Mrs. Naomi Minter, Mrs. Lisa Morris, Mrs. Kathy Jo Kemper and Mrs. Cheryl Robbins to the combined committee. The motion carried five (5) to zero (0).

PLANNING AND ZONING

Preliminary Plat Approval of “The Retreat on Haw River, Phase 2”: Consideration of a request by The Retreat on Haw River, LLC on behalf of Polk-Sullivan, LLC and Chatham Partners, LLC for subdivision preliminary approval of **“The Retreat on Haw River, Phase 2”**, (f/k/a Williams Pond and Sanctuary at Haw River), consisting of 63 lots on 272.62 acres, located off SR #1711, Bynum Ridge Road, Baldwin Township

The Planning Director explained the preliminary subdivision request.

Preliminary Plat Approval of “The Retreat on Haw River, Phase 2”: Consideration of a request by The Retreat on Haw River, LLC on behalf of Polk-Sullivan, LLC and Chatham Partners, LLC for subdivision preliminary approval of **“The Retreat on Haw River, Phase 2”**, (f/k/a Williams Pond and Sanctuary at Haw River), consisting of 63 lots on 272.62 acres, located off SR #1711, Bynum Ridge Road, Baldwin Township

The Planning Director explained the preliminary subdivision request.

Fred Royal stated that he felt that their buffer determinations were well-done given the fact that it was three to four years ago; that he was surprised at that; that he found there was a draw that runs approximately from lot 150 to 155 that is an intermittent/ephemeral stream; that it is not a continuous water body for an intermittent or ephemeral stream; they are proposing to put a 20 foot drainage easement; that he thinks what would best serve the subdivision would be to have language in that private drainage easement that addresses the natural drainage-way by keeping it remaining in its natural stage and keeping obstructions from entering the channel and filling it and putting in a culvert, etc.; that that is addressed in the Stormwater Ordinance; that easement language and easement maintenance activities are important; that this drainage way is not a blue-line stream shown on the USGS Quad or county GIS, it is an important naturally occurring drainage-way; that it has been identified by the developer as such, but he feels that some tight language that protects it would be important as it will affect five or six lots.

Chairman Lucier asked if Mr. Royal felt it would be a significant improvement if that was left in its natural vegetative state and somehow protected from any decisions from whomever purchases those lots and modifies them somehow. Mr. Royal agreed.

Mr. Royal stated that it proposes private rights of way for the internal streets; that they are proposing a standard DOT cross section of grass swales; that they are not proposing stormwater management per se; that it was noticed that a lot of the discharge points will have a very short tract to get to the natural stream channels where erosion would occur; that any type of best management practice (BMP) to slow down the velocity is needed.

Nick Robinson, Attorney, stated that he appreciated the work by Fred Royal; that the plan without modification meets all of the possible applicable ordinances; that the idea of putting restrictions on the drainage area on the plat in the covenant is an acceptable additional and voluntary measure to the developer; that they would need the ability to cross it with a driveway, if necessary; that the one concern is that there is invasive species in the drainage area that they may need to be removed.

Mark Ashness, CE Group, stated that they looked at all the potential discharge points; that there is only one with steeper slopes that they would have a velocity concern and they will widen the discharge point.

Keith Megginson stated that on the email copied to the Board, the drainage easement recommended by Mr. Royal is 20' total width.

Commissioner Vanderbeck stated that he appreciated the changes that the developer has made; that it didn't initially come on this Board's watch and it has been a difficult one; and that these things make it more acceptable.

As per the Planning Department and Planning Board recommendation (by a unanimous vote), Commissioner Vanderbeck moved, seconded by Commissioner Barnes, to grant approval of the road names Sanctuary Ridge Road, Chapel Creek Lane, Drake's

Meadow Drive, Heron's Ridge Lane and grant preliminary plat approval with the following conditions:

1. The developer shall continue to work with and notify the Historical Association if any structures or cemeteries are discovered on the Phase 2 portion during road construction or lot clearing.
2. A note shall be placed on the final plat designating the maintenance responsibility of the common open space.
3. There shall be an undisturbed drainage easement a total of twenty (20) feet in width across lots 150-155 and said easement shall be appropriately labeled on the final plat. Invasive plant species may be removed.
4. Drainage swales shall be designed to reduce velocity prior to entering natural drainage ways.

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

***Report on Work Session deliberations of the following Items A – E:**

Chairman Lucier stated that the Subdivision and Zoning Ordinances were discussed during the afternoon Work Session and that they will discuss the others on November 24th at 9:00 AM in the Dunlap Classroom.

He stated that they worked through the subdivision ordinance; that it will streamline the process and much of the information generation will be at the beginning of the process; that beyond the first step, it will mostly be administrative approval with limited revision; that any application currently in will go by the old rules; and that for those that come in after December 1st it will comply with the new rules.

He stated that with regard to zoning, they went through the design guidelines with no major changes; that there were some concerns with regard to secondary businesses in the agricultural districts; that the Board of Commissioners decided to take that out for now and ask the Ag Advisory Board for their input into the language for agricultural districts that they will submit to the Planning Board for review; that a major concern was the amount of land used for secondary business; and that a secondary business is often necessary for farmers in order to make ends meet especially in times of drought or other economic conditions beyond their control. He stated that the Board will review Watershed, Stormwater, Soil Erosion and Sedimentation Control at their meeting on Monday, November 24th.

***A. Text Amendment to Chatham County Zoning Ordinance:** Consideration for a request to approve text amendments to the Chatham County Zoning Ordinance to provide the following new zoning districts: Neighborhood Business, Community Business, Regional Business, and Agricultural. Amendments also include the creation of a Table of Permitted Uses, revisions to Home Occupations that include reductions in accessory building sizes, environmental standards, and landscaping and buffering requirements for all non-residential developments

***B. Text Amendments to the Chatham County Subdivision Regulations:** Consideration of a request to approve text amendments to the Chatham County Subdivision Regulations to amend the major subdivision process from three steps to four steps. The four steps are concept plan, first plat, construction plan, and final plat. The major subdivision process is proposed to include a community meeting, review by the Planning Board, Environmental Review Board, Appearance Commission, and School Board and the incorporation of environmental standards for development. The amendments also include a voluntary conservation subdivision option to allow for open space conservation and density bonuses, road network connectivity standards, view-shed and buffering standards, and increasing the percentage of work that must be completed before acceptance of a financial guarantee.

***C. Text Amendments to the Chatham County Watershed Protection Ordinance:** Consideration of a request to approve text amendments to the Chatham County

Watershed Protection Ordinance to provide increases in density to accommodate conservation subdivision density bonuses in the Chatham County Subdivision Regulations

***D. Text Amendments to Chatham County Soil Erosion and Sedimentation Control Ordinance:** Consideration of a request for text amendments to the Chatham County Soil Erosion and Sedimentation Control Ordinance to reduce the minimum land disturbance requiring an erosion and sediment control permit from 1 acre to 20,000 square feet, require a residential lot disturbance permit for residential lots disturbing less than 20,000 square feet, and modify erosion and sediment control plan design standards. Amendments also include design standards for gradual slopes and moderate slopes and to prohibit development on steep slopes.

***E. Chatham County Stormwater Ordinance:** Consideration of a request for a Chatham County Stormwater Ordinance to establish minimum requirements and procedures to control the adverse effects of increased stormwater runoff and non-point and point source pollution associated with existing and new developments and redevelopments. The provisions of the ordinance apply to activities that cumulatively disturb more than 20,000 square feet. The ordinance provides design standards for stormwater control features, administrative responsibilities, stormwater management plan requirements, maintenance and inspections provisions, and enforcement provisions.

PUBLIC HEARINGS:

Public Hearing to Rezone Acreage: Public hearing to receive public comments on a request by Michael Foley to rezone approximately 48 acres, Parcel # 60167, located between US #1, Moncure School Road and the Pittsboro Moncure Road, Haw River Township, from RA-40 (residential/agricultural) to B-1 Business

The Planning Director explained the specifics of the request.

The Chairman opened the floor for public comments.

Lunday Riggsbee, Attorney representing Mr. Foley, stated that when Mr. Foley purchased the property, it was in an unzoned area and there were no requirements on it at the time; that he got a commercial driveway permit and installed a commercial driveway entrance on the Pittsboro-Moncure Road; that he had a possible sale of the property by someone who was interested in placing a restaurant and/or a hotel on it; that the overlay came through and it was zoned to RA-40; that the potential buyers were unwilling to go through with contract with their concerns that they would be able to develop the property; that Mr. Foley and his brother are still trying to sell the property; that they feel it is much more conducive to a business use, especially the two entrances on the Moncure School Road and the Pittsboro-Moncure Road; that the back portion of the land is fairly hilly and not conducive to a lot of use because of the lay of the land; that the location along US #1 would be a good location for another business; that Mr. Foley has stated that he clearly would not want something in direct competition; that if they do not sell the property, and they may wish to consider a restaurant or hotel on the property, but they do not want to be tied to a specific use at this time.

Ms. Riggsbee answered questions from the Board and Planning Board members.

The Chairman closed the public hearing.

Public Hearing to Rezone Acreage: Public hearing to receive public comments on a request by Belmeade Farms, LLC to rezone approximately 194 acres, consisting of multiple parcel numbers located within the zoned portions of the subdivision plat for Belmeade Farms from RA-40 (residential/agricultural) to Conditional Use O&I (office and institutional) for a cemetery and memorial gardens, Center Township

The Planning Director explained the conditional use component of the request.

The Chairman opened the floor for public comments.

Nick Robinson, Attorney, representing Belmeade Farms, LLC, made comments in their entirety as follows:

“Honorable Commissioners, Members of the Planning Board, County Manager, County Staff and County Attorney, my name is Nick Robinson from Bradshaw & Robinson, LLP here in Pittsboro, and I am happy to be here on behalf of Belmeade Farms, LLC and Mr. Pat O’Neal of Chatham County. They are before you today with an opportunity to approve zoning necessary for a unique cemetery and memorial garden project.

The Applicant is requesting that the County modify the zoning of a 194.38 acre tract RA-40 to an Office and Institutional conditional use district. In many jurisdictions, cemeteries are allowed uses or conditional uses in residential districts but, under our zoning ordinance, a cemetery is currently required to be located in an O/I district. The Applicants are simultaneously requesting a conditional use permit for the cemetery and memorial gardens as well as associated and ancillary structures and uses. The details of those uses and the proposed site plan will be addressed in the public hearing relating to the requested conditional use permit.

This first hearing will be our presentation of the inherent appropriateness of a conditional use O/I district at this location. Using Section 17 of the Zoning Ordinance as our guide, our Application has covered the required seven points. We would like to spend the time allocated to us this evening to summarize the fifth required element which is ‘the manner in which the proposed amendment will carry out the intent and purpose of the adopted Land Development Plan or part thereof’.

To begin with, this rezoning request is different from many of the rezoning requests you’ve had before you because it involves land that has already been approved as part of a 197 lot residential subdivision. The owners have heard this Board’s encouragement to bring viable commercial uses to the towns and business districts. They have also determined that conservation of open spaces and natural areas can be readily achieved with appropriate O/I zoning – especially in the form they have in mind. The property adjoins the Solid Rock Baptist Church (another compatible O/I), is on the major connector between the County’s two largest municipalities and it is situated at a convenient crossroads for commercial. As such, it is an appropriate spot for the requested rezoning.

Secondly, this property has a unique location right at the fulcrum of the 64 Bypass just west of Pittsboro – making it uniquely accessible to Town and County residents as well as travelers through Town.

This proposed district fits well within the concepts and policies set forth in the Chatham County Land Conservation and Development Plan (the “Land Use Plan”).

The Land Use Plan begins by setting out two “fundamental policies.” The first of these fundamental policies is for land development to “reflect balanced growth.” *Land Use Plan, p. 1*. Balance growth is said to be achieved when growth “consists of a mix of different kinds of development” and is “guided to suitable locations and is designed appropriately.” *Land Use Plan, p. 1* Thus the Land Use Plan directive is to mix uses where appropriate. The location of the requested O/I district is ideal in that it is close to the Town but not in it, thereby serving both the town of Pittsboro and the surrounding rural areas as well as the other local municipalities. The design has been carefully planned so as to make only positive impacts on the Chatham viewscape while preserving nearby natural assets.

The Land Use Plan makes references (without an adopted map) to seven different types of places or “land conservation and development areas.” *Land Use Plan, p.2*. Office and Institutional uses are allowed in six of the seven areas. The Property comprising this project fits into more than one of those categories or areas including ETJ areas, Economic Development Centers and Agricultural and Rural Development Areas. The plan promotes O/I uses in the Towns, “including ETJs.”

The Land Use Plan emphasizes the desirability of guiding development in or near existing towns and ETJs. This concept of locating development in or near towns is mentioned approximately 30 times in the Land Use Plan. This project is located just on the edge of the Town of Pittsboro ETJ. In fact, the Property was within the Town ETJ until that

was changed to facilitate the oversight by one jurisdiction of the split zoning of the parent parcel. The Land Use Plan emphasizes the value in guiding development to the Towns. This project is perfectly located at the juncture of the Pittsboro bypass so that it is on the Town edge but still conveniently accessible to those who would benefit from the O/I district from other spots within the County and beyond.

The concept of protecting “rural character” is well-defined and prominent in the Land Use Plan. The Plan mentions “rural character” at least 36 times. In fact, “rural character” is defined in the plan to include a backdrop of “. . . barns, churches and silos . . .” *Land Use Plan, p. 16*. Subject to an appropriate conditional use permit and site plan with appropriate design values, an O/I district can both retain rural character and promote commercial benefits for the County.

In referring to “Economic Development Centers,” the Plan requires that the County’s economic development efforts will “explore the feasibility of pursuing environmentally and community compatible business enterprises.” *Land Use Plan, p. 31*. The Plan refers to 8 square miles of economic development centers but never included a map indicating the locations of the same. Thus, our guidance for where economic development centers should be located is supplied by the multiple references to the appropriateness of economic activity in or near the towns. This Property is ideal for a cross-roads commercial endeavor, being located as it is at the fulcrum of the western Pittsboro bypass for highway 64.

This also meets the purpose of the residential corridor zoning that was recently placed on the 1500 feet on either side of U.S. 64 west of Pittsboro. Without that zoning, this land would have been unzoned and no CUP would have been required. The Applicant was mindful of that in designing the roadway buffer and landscaping plan. The Appearance Commission reviewed this plan on October 8 and found it to be excellent, with no additional recommendations required.

Further, the Land Use Plan provides that “economic activity can occur almost anywhere in the County, with the exception of conservation areas, but different activities (or uses) would be appropriate in different locations and might be subject to different performance and design standards.” *Land Use Plan, p. 27*. This economic activity (O/I) is perfectly matched to the location and in complete alignment with the goals and policies of the Land Use Plan.

- It encourages community compatible businesses. *Land Use Plan, p. 27*.
- A broad range of economic activities should be permitted. *Land Use Plan, p. 31*.

The Land Use Plan also sets out benchmarks for establishing appropriate economic development centers such as (1) areas especially suited for particular businesses (this location is ideal from a transportation standpoint and from a conservation standpoint); (2) areas tied to transportation infrastructure (this site is located at the western bypass interchange); (3) areas minimizing impact of businesses on areas of the county (access to this location as a crossroads commercial location is extensive from all directions but will not burden the major thoroughfares nearby); (4) commercial development that pays for itself (O/I uses will not impose any financial burden on the County but will create jobs and will increase local spending). *Land Use Plan, p. 10*.

There can be no doubt that this proposal fulfills the specific language of the Land Use Plan and is consistent with and promotes the purposes and intent of the Land Use Plan.

We stand upon the reasons for the rezoning offered in our application as required under Section 17. As additional support for the zoning district modification, we tender into evidence the application and materials filed with the application for a conditional use district and incorporate those into the record.” Mr. Robinson asked that the Board consider the request thoroughly and approve it.

Peter Theye, Planning Board Member, stated that it looked like there would be extensive grading; that when it comes before the Planning Board, he would like to know that the staff has looked at the streams on the plan and they will know that the stormwater plans

are going to work well; that the chemicals on the grass are going to be properly handled; and that he will not have to worry about run off and stormwater retention.

Kathleen Hundley stated that she is a land owner with acreage and a permanent residence on the Rocky River in southeast Chatham County; that she is President of the Friends of the Rocky River and a board member of the Rocky River Heritage Foundation; that she'd like to speak for FORR regarding the request to approve a cemetery on land that was originally allocated for the Belmeade subdivision; that FORR urges that the County require stream buffers of no less than 200 feet wide on each side of all perennial streams, 100 feet on each side of all intermittent streams, and 75 feet on each side of all ephemeral streams. She stated that this buffer will serve to filter increased nitrogen and phosphorus from the river, both of which are an increasing problem in the Rocky River; that the natural filter provided will further decrease water quality, will reduce sediment into streams and the Rocky River, and will limit adverse pressures on aquatic life in the river and increase the opportunity for class "C" recreational use activities in the river as the Rocky is currently classified to do; that secondly, the Rocky River Heritage Foundation would like to publicly thank the Board of Commissioners for their commitment in support of efforts to improve water quality in the Rocky River that will provide a resource for the citizens of Chatham County; that they especially appreciate the allocation of funding for a water quality monitoring program proposed by Dr. John Fountain, Director of the NCSU Department of Marine, Earth, and Atmospheric Sciences; that the Rocky River Heritage Foundation will collaborate with the County by investing in the monitoring project and will seek to acquire other stakeholders and their investments sufficient for the cost of proposed restoration efforts. She thanked the Board for their time and for their recognition and support of the Rocky River Restoration Program.

The Chairman closed the public hearing.

Public Hearing for Conditional Use Permit: Public hearing to receive public comments on a request by Belmeade Farms, LLC for a conditional use permit for a cemetery and memorial gardens area as well as associated and ancillary structures and uses located on approximately 194 acres, Center Township

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

The Planning Director explained the second part of the conditional use district zoning for O & I for the cemetery memorial gardens as well as associated and ancillary structures and uses located on approximately 194 acres.

Nick Robinson, Attorney, that he is here on behalf of the applicants in connection with their conditional use permit application for the Belmeade Cemetery and Memorial Gardens; that he wants to incorporate into the record now our written comments on the CUD and our written application, as well as all of the materials submitted with the CUP application; that with him tonight are Pat O'Neal and his sons Kevin and Steve, Lucy Gallo, Rynal Stephenson, David Gainey and Nick Erpelding; that as far as the technicalities are concerned, what the Applicants seek is approval of an O/I conditional use permit and site plan approval for cemetery and memorial gardens uses, as well as uses and structures customarily ancillary to such issues. He stated that he will introduce the speakers on behalf of the application in just a moment, beginning with Pat O'Neal but, by way of background, he thought it would be useful for you to know that on October 8th, they met with the Appearance Commission on this project; that they reviewed it, in great detail and approved it without any suggested changes; and that he will turn the podium over to Pat O'Neal to briefly describe the concept of the project, the site plan, the landscaping, signage and lighting.

Pat O'Neal stated that he is with Belmeade Farms, LLC; that in the United States there are about seven historical cemeteries; that there will be memorial gardens with paths; that there is less than 22% impervious surfaces in the entire site plan; that there are a large amount of wooded buffers; that this could be a draw for people from around the Triangle; that we've lost a lot of the tranquility of old family cemeteries; that the buffers along US #64 are proposed at 150'; that there are extensive landscaping plans; that it is only open from dawn to dusk with security; there will be minimal lighting at night; that along the streams the buffers are expanded with natural walkways; that jobs are created in the County; that it is a

slow and gradual development plan; that currently there more than 70 million boomers that face the same end; that we need to deal with the need that is going to be there; that it is an excellent use and an excellent location; that signage is at a minimum; and that the only sign will be at the entrance.

Mr. O'Neal answered questions from the Board.

Nick Robinson stated that a commercial driveway permit was issued by NCDOT for Belmeade Subdivision; that they went back to propose the change to DOT with this plan; that they issued a permit extension and gained their approval to October 6, 2009.

Lucy Gallo stated that this was a unique economic impact analysis; that the first piece was the cemetery memorial gardens operation as a business entity; that the secondary analysis was the goal is to create a destination for special services; that the economic development in Chatham County is to create a unique service that is without comparison; that the intent is to draw visitors and family members into the County; that during the construction period in year one, there will be 69 jobs created, years 2-4, 38 annual jobs, and that site development, 37 jobs; that they anticipate around 250 burials per year which is 3% of deaths in the four county area; that 21 employees are expected for continued full-time, but will have the impact of 49 employees on a bigger scale; that burial sites become tax exempt when used for its intended purpose; that the tax impact will be lessened but increased in auxiliary services such as florists, diggers, etc.; and that the build-out for basic infrastructure is four years.

Sally Kost questioned the calculation of the property tax exemption and how it works. She asked if only the sites themselves become tax exempt, and not the property as a whole.

Peter Theye asked about the perpetuity of the maintenance of the cemetery; that he asked how it funds itself and still have value.

Ms. Gallo answered questions from Planning Board members.

Pat O'Neal stated that according to NC law, new cemeteries are established with perpetuity fund.

Nick Robinson entered a traffic impact analysis into the record. He stated that the conclusion is that the development will not have a significant impact on the traffic infrastructure.

Rynal Stevenson stated that the number of cars generated suggests that a large procession of vehicles are taken into account; and that those type of things are typically led by law enforcement who stops traffic for turning traffic.

Mr. Stevenson answered questions regarding the traffic analysis.

Nick Robinson stated that the buffers in place are extensive; that the watershed ordinance revisions prompted a revision of the buffers; that the new plan reflects the inclusion of the newly mandated buffers; that all buffers have been expanded; that he has a comparison map for buffers that may be helpful; and that it will be submitted electronically.

He stated that he will have more information on the type of lawn and pesticides for the Planning Board.

Barbara Ford, Planning Board Member, asked about the percentage that would be actual lawns and the amount that would be fertilized.

Chairman Lucier asked if the use of pesticides would be done through best management practices, stating that that information needs to be provided.

Peter Theye reiterated his request for staff to check out the site to evaluate run-off, etc. and for the buffers to be adequate.

Jim Hinkley asked about caretakers residences and other ancillary buildings.

Pat O'Neal stated that there would be an administration building that served as the coordinated all the maintenance; that there would be a minimal amount of irrigation; that they did a survey of 30,000 people regarding burial needs/cremation preference.

Nick Robinson stated that he did have a report from the appraiser; that it examined all the real estate transactions in the area and there will be no adverse impact on surrounding property values; that they feel that the five findings were met; that on behalf of the applicant that they hope the information is sufficient and that they hope the conditional use permit is granted.

Mr. Robinson stated that this Conditional Use Permit application and evidence certainly meets the five findings required to approve a CUP under the Chatham County Zoning Ordinance; that on behalf of Belmeade Farms, LLC and the O'Neals, they respectfully submit that the evidence provided in the application and at this hearing is sufficient to support the five necessary findings under the Chatham County Zoning Ordinance; and that they respectfully request that the proposed conditional use permit be granted. He stated that so that he will not have to interrupt and have unnecessary confrontation with any possible 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 North Carolina law and to any opinions that are offered without adequate foundation under North Carolina law.

The Chairman closed the public hearing.

Public Hearing for Conditional Use B-1 Permit: Public hearing to receive public comments on a request by LIR, LLC for a Conditional Use B-1 permit on an existing Conditional Use B-1 District portion of Parcel #17707, located at 10544 US #64 East, on approximately 1 acre for an eating and drinking establishment in connection with the 1.147 portion currently zoned B-1 Business, New Hope Township

Nick Robinson, Attorney with Bradshaw & Robinson, LLP, in Pittsboro, and he is happy to be here on behalf of LIR, LLC (the Applicant) and Mich Gardens at Jordan Lake, Inc. (Landowner). Mr. Robinson's comments, in their entirety, are as follows:

"We are before you today with an opportunity to approve a conditional use permit to allow for an eating and drinking establishment and uses and structures ancillary to the same. As may have been mentioned, the necessary business zoning district is already established for this 2.147 corner parcel at the intersection of U.S. 64 E. and Beaver Creek Rd. (SR #1008). This property is the current location of Mitch Gardens.

With me tonight are Will Copeland, a principal of the Applicant and Carter Crawford.

What the Applicant seeks is approval of a conditional use permit B-1 permit (site plan approval) for a drive through restaurant at a very strategic intersection of US #64 reserved for commercial endeavors. So, we have the approved zoning necessary. All that is needed is review and approval of the site plan through the conditional use process. A great deal of thought and planning have gone into the site plan, with a special emphasis on landscaping. We met with the Appearance Commission on October 8th and, after a thorough review, the recommended approval without changes."

Mr. Robinson asked Carter Crawford, the site planner and landscape planner, to review the particulars of the site plan with the Board.

Carter Crawford stated that the entrance is as far off of the intersection as possible; that there is no sit-down eating; that the only parking required is for employees; that the impervious surface is less than the current impervious surface on the site; that the buffer along US #64 is 10 feet; that this proposed use is consistent with the vision contained in the Chatham County Land Conservation and Development Plan (the "Land Use Plan"); that further, approval of the proposed use encourages local, community based economic development; that the co-founder of LIR, LLC is a consummate local contributor, who, along with his ancestors, have been in business in this part of the County since 1918.

Commissioner Lucier asked for a written report from the Appearance Commission before the Planning Board reviews it.

Nick Robinson stated that the watershed protection ordinance specifically points out this intersection for commercial development; that there may be another pump and haul septic system that needs to be installed; that the owner of the site works with Apex Nurseries and will make every attempt to landscape well; that the LUP states economic centers should be in planned areas which this does; and that this does add tax value. Mr. Robinson submitted his written comments for the record.

Will Copeland stated that they would be open to any suggestions to help them set a precedent at that intersection; they are trying to build a green business; that they spoke with Mich Gardens about the project and they were in favor of it.

Jim Hinkley stated that the internal driveway circulation should allow for return internally; that the curves should be wide enough to accommodate boats; that

Karl Ernst, Planning Board Member, stated that the intersection can be very busy and traffic should be considered.

Mr. Robinson asked that their entire application be incorporated into the record.

The Chairman closed the public hearing.

Public Hearing for Revision to Existing Conditional Use Permit: Public hearing to receive public comments on a request by Carolina Utility & Grading located at 2835 Farrington Point Road, Parcel #76255, for a revision to the existing conditional use permit to add the selling of retail materials used by the applicant and to include the rental of contractor equipment to the general public, located on approximately 14 acres, Williams Township

The Planning Director outlined the details of the proposal.

Gloria Perez asked that the retail component be added in order to allow for the rental of small contractor equipment to the general public. She stated that the items would be small as in tile cutting saws, and ladders; and that it would be limited to items that are currently used by the applicant. Ms. Perez answered questions from the Board of Commissioners and Planning Board.

The Chairman closed the public hearing.

BOARD OF COMMISSIONERS' MATTERS

Public Hearing for Borrowing of Funds for Northwood Renovations and the Purchase of the Performance Building: Public hearing to receive public comments concerning the Amended and Restated Contract and a Deed of Trust with respect thereto and delivery thereof and providing for certain other related matters pertaining to the borrowing of funds for the Northwood High School renovations and the purchase of the Performance Building

Consideration of a request to adopt **Resolution of the Board of Commissioners of the County of Chatham North Carolina Approving Amended and Restated Contract and a Deed of Trust with Respect Thereto and Delivery Thereof and Providing for Certain Other Related Matters Pertaining to the Borrowing of Funds for the Northwood High School Renovations and the Purchase of the Performance Building**

The Chairman opened the floor for public comments.

There was no one present who wished to make public comments.

The Chairman closed the public hearing.

Commissioner Vanderbeck moved, seconded by Commissioner Barnes, to adopt **Resolution#2008-66 of the Board of Commissioners of the County of Chatham North**

Carolina Approving Amended and Restated Contract and a Deed of Trust with Respect Thereto and Delivery Thereof and Providing for Certain Other Related Matters Pertaining to the Borrowing of Funds for the Northwood High School Renovations and the Purchase of the Performance Building, attached hereto and by reference made a part hereof. The motion carried five (5) to zero (0).

MANAGER' S REPORTS

The County Manager had no reports.

COMMISSIONERS' REPORTS

Recreation Advisory Board:

Commissioner Thompson moved, seconded by Commissioner Barnes, to appoint Willie Snipes to the Chatham County Recreation Advisory Board to replace Tyrone Hanner. The motion carried five (5) to zero (0).

Economic Development Meeting:

The Chairman informed those present of the joint meeting with the Board of Commissioners and the Economic Development Commission on November 18, 2008, beginning at 6:30 PM, to be held at Central Carolina Community College in the multipurpose room.

Major Corridors Meeting with Business Owners:

The Chairman also informed those present of the meeting on Thursday, November 20, 2008 with business owners along the major corridors to continue dialogue with them regarding zoning classifications for their current and existing businesses.

Western Wake Partners:

Chairman Lucier stated that he had sent a letter to Apex Mayor Weatherly in response to a letter that he had sent to Chatham County letting him know that the Western Wake Partners know for the New Hope Wastewater Treatment Plant that they have to yet seek Chatham's formal approval for running the transmission line across Chatham County; that they would like for them to do that; that as part of that discussion, they would also ask them to support a local bill to not allow Apex or Cary to annex into Chatham County without Chatham's approval.

Pittsboro to Chapel Hill Bus Routes:

The Chairman stated that there were two public hearings on the bus route from Pittsboro to Chapel Hill; that the Board of Commissioners has expressed strong support for the bus route, they were not consulted with regard to the public hearings dates and times; that one was on November 20th on which they had the major corridors meeting scheduled and the other is December 4th on which the Siler City Christmas parade will be held which they had agreed to attend; that there will be a request for them to be a financial partner in this activity; that if they are to do this, another public hearing will have to be scheduled in which the Chatham County Commissioners and staff will have the opportunity to participate; and that a letter has been sent to the Mayor of Chapel Hill making this request.

ADJOURNMENT

Commissioner Barnes moved, seconded by Commissioner Vanderbeck, to adjourn the meeting. The motion carried five (5) to zero (0), and the meeting adjourned at 8:41 PM.

George Lucier, Chairman

ATTEST:

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