

**MINUTES**  
**CHATHAM COUNTY BOARD OF COMMISSIONERS**  
**SPECIAL MEETING**  
**APRIL 17, 2007**

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The Board of Commissioners (“the Board”) of the County of Chatham, North Carolina, met in the Superior Courtroom, 1 Hillsboro Street, located in Pittsboro, North Carolina, at 7:00 PM on April 17, 2007.

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

**CHATHAM/CARY JOINT LAND USE PLAN**

The Chairman called the meeting to order at 7:08 p.m.

Chairman Carl Thompson thanked those in attendance, noting the Board valued the public’s input. He said a question had previously been raised about the Board’s ability to abide by its decisions regarding the zoning designation in this area, and did not believe that would be an issue. Chairman Thompson said some of the Board’s concerns were the water quality of Jordan Lake, economic development in the County and the possibility of having high-tech development in the appropriate places. He said they wanted to, as much as possible, ensure those who lived in that area would be able to use the land to its maximum potential.

Chairman Thompson said because of the number of people signed up to speak, a four-minute time limit would be imposed on each speaker in order to allow time for all views to be heard.

Planning Director, Keith Megginson, provided a brief history of the process used to get to this point. He explained each map and its color coding, pointing out that Chatham County had tremendous growth pressures coming its way. Mr. Megginson said because of those pressures, Cary could annex under State law across County lines as could others. He said that fact had resulted in their efforts to create a Joint Land Use Plan with Cary, and they had been working together for over a year to come to this point.

Mr. Megginson said they had also been working to identify specific species of wildlife that may need protection such as Bald Eagles, as well as plant life. He said those unique and sensitive characteristics played a role in the decision-making process, as did the concern for water quality in Jordan Lake. He said taking all of those concerns into consideration had led to the creation of the New Draft Maps that showed the possibilities in the areas.

Mr. Megginson said after the night’s hearing they would rely on feedback from the Board to refine the maps if necessary, provide for more citizen input, and then hopefully adopt the Plan in about a year.

***Public Hearing:***

**Robert Sears**, 454 Lewter Shop Road, Apex, NC, stated that he was with a Chatham County grass roots organization and would like to propose that all of the land in question be changed from RA-40 to RA-5; that he would take in all the land from the line to the lake; that Cary would have to approve it and abide by it; that changing the zoning to RA-5 would be simpler and was in the character of that area; and that it would make it less appealing to developers because it would keep the density low, making it less economically attractive.

Mr. Sears stated that zoning would provide some hardships as well, since the density would be one house for every five acres; that if families wanted to have other family

members close by, then variances could be considered on a case-by-case basis; that it came down to being able to say “no” to developers; and that zoning of RA-5 made the most sense.

**Mike Massey**, 410 Chatham Glen Drive, Durham, NC, stated that his family had lived at their current home for 25 years and covenants required that development be restricted to one house to every five acres with a minimum house size of 1,300 square feet; that they had a private road maintained by the nine residents in the area; that they supported the idea of one dwelling per five acres; that they had a long-term commitment to that; and that in addition, by maintaining that density one would maintain the continuity and rural character on that end of the County.

**Joseph Evans**, 121 Indian Creek Lane, Apex, NC, provided some history of the Woods of Chatham, noting that Phase 3 was purchased by Todd Hodge in 1998. He stated that he understood that neither the Town of Cary nor Chatham County recognized the validity of protective covenants of a subdivision; that when Mr. Hodge bought the property, he knew that the homeowners of the Woods of Chatham would protect any attempt to develop the property contrary to those covenants; that in 2006, Mr. Hodge petitioned the Town of Cary to annex Phase 3; that such annexation of the 45 acres of Phase 3 would result in high density housing that would destroy the rural nature of the area and have a negative impact upon the quality of life of those already residing there; that while it may be true that Cary and Chatham County were not required to recognize protective covenants of a homeowners’ association, they were required by law to recognize the existence of a subdivision, which the Woods of Chatham was defined as by General Statute 106A-376; that it was important because G.S. 160A-58.1 concerned the annexation of land within a subdivision and limited a municipality’s authority to annex; and that if the court ruled that the 45+ acres designated “For Future Development” in Phase 3 was part of the Woods of Chatham subdivision, any petition for annexation would require a signature from every homeowner in the subdivision, as stated in G.S. 160A-58.1 (b-4).

Mr. Evans asked that no annexation request be considered for Phase 3 pending possible legal action by homeowners in the affected area. He further asked that the planning departments of Cary and Chatham County confirm that any petition for annexation did not contain land located within a subdivision, or if the land was within a subdivision the petition had signatures of each homeowner as required by law.

**Gary Mason**, 235 Indian Creek Lane, Apex, NC, stated that he understood that the Board had to look at the big picture, but asked that they keep in mind the effect of the big picture on the individual land owners as well as all accompanying issues. He stated that issues such as traffic, roads, schools, and areas already annexed would all have an effect, noting about 30 houses per month were going up; that one of his big concerns with Cary was with Amberly, the mega development that had been approved; that since its approval, it had been bought and sold many times, with each new developer asking Cary for zoning changes; that the development got denser and larger as time passed; and that his concern with a land use plan was what would happen when a developer came in and requested rezoning to a higher density in Chatham County.

Mr. Mason said Cary was notorious for allowing clear-cutting of trees, removal of topsoil, flattening out the land, and putting as many houses on the land as possible. He stated that his fear was that the beauty of Chatham County may be destroyed if such practices were allowed; and that restrictions such as setbacks, no clear-cutting, and others needed to be put in place and enforced so that buffers and natural settings were respected and maintained.

**Kim Perry**, 1365 Luther Road, Apex, NC, stated that her family had “escaped the wrath” of Cary five years ago and moved to Chatham County. She described how development had taken place around her in Cary and how the unfairness of it had forced her family to leave. Ms. Perry said she did not believe Cary would fulfill its promises to keep up the roads or other infrastructure, based on its past history; and that the fact that Chatham County schools would have to support children from Cary was unfair.

**Larry Ballas**, 139 Indian Creek Lane, Apex, NC, stated that the entire area around the lake needed to be taken into account, not just the Cary side. He stated flexibility in the plan was needed, and that required a cooperative friendship with Cary. Mr. Ballas stated that regardless of what plan was eventually accepted, there was no guarantee that future Cary

councils would continue to abide by it; that his preference was for one house per every five acres, but said some flexibility had to be built in, noting two houses per every five acres or one house per every three acres was also acceptable.

Mr. Ballas stated that he believed Cary wanted to work with Chatham County to keep the lake as pollution free as possible; that government was established so that the process of development worked properly; that what was needed here was a process to satisfy the largest majority of people possible; and that it was not government's right to maximize the profit someone could realize on their land, rather it was their job to maximize the use of the area to everyone's benefit.

**Judith Ferster**, 228 Carolina Meadows Villa, Chapel Hill, NC, stated that she was speaking for the Orange-Chatham Group Sierra Club as well as the Capital Group Sierra Club. She stated that they preferred the New Draft Map over the previous options for several important reasons. For instance, she said, it would preserve habitat and water quality which, in turn, protected valuable recreational and drinking water resources and their economic impact on both counties.

Ms. Ferster outlined several ways to solve the problem of excess nutrients flowing into Jordan Lake, including the protection of perennial streams with forested buffers, use of the "conservation subdivision design" as defined in Cary's Open Space and Historic Resources Plan, processing of wastewater for no additional nutrient discharge to the watershed, adoption of best practices such as Bioretention to minimize stormwater runoff, adoption of Low Impact Development principles, and adoption of regulations to limit the amount of bare earth exposed at any one time to minimize silt flowing into the lake.

**Stewart Pearce**, 2700 Old Hope Valley Farm Road, Chapel Hill, NC, stated that he was speaking for the New Hope Audubon Society. He said they had several concerns, one of which was the depletion or disruption of Eagle habitat in the proposed area, as well as the need for a strong and comprehensive management plan for storm and nutrient runoff. He stated that another concern was the need for an environmental impact study for the area of concern; and that the study should include a survey of any Eagle critical areas that were not currently included in the proposal but that needed to be established.

**Rita Spina**, 12 Fearington Post, Pittsboro, NC, stated that she was speaking for Chatham Citizens for Effective Communities (CCEC). She said they were supportive of the rezoning as a first step; that although the zoning plan would offer some added protection for this watershed area of Jordan Lake, they would still prefer to see 10-acre zoning; and that they did support the additional subdivision of land to accommodate family members who then would need only to come before Chatham County for approval.

Ms. Spina said the CCEC was in support of most of the Plan, but said there was a major problem with the timetable proposed by Cary; that September 28, 2007 was given as the date for the end of the stay on annexations, but the timetable did not provide for finalization of the Plan until April 2008; and that between those two dates revisions were possible so CCEC advocated for the stay on annexations to remain in effect until the Plan was finalized, scheduled for April 2008.

Ms. Spina stated that CCEC was not in agreement on the concept of involuntary annexation; however, she said, they hoped that any further requests for annexation would be handled through the same processes that had produced the cooperative plan for the first step, that is mutual communication, respect and cooperation between the two municipalities.

**Thomas A. Kost**, 1101 New Hope Church Road, Apex, NC, provided a series of photographs of Jordan Lake and the surrounding areas. He explained the effects of the number of streams that dumped into Jordan Lake, and the tons of silt caused by development and other land disturbances. Mr. Kost stated it was important to reduce the effects being foisted onto the lake and its water quality and urged the Board to allow only one residence per five acres.

**Roland McReynolds**, 1424 Bynum Ridge Road, Pittsboro, NC, stated that he was speaking for the Haw River Assembly. He stated that they urged the Board to adopt a final land use map and regulations that would provide the greatest protection for both water

quality and the environment of Jordan Lake; that the New Draft Map offered the greatest protection and the adjacent natural heritage areas than the previous two options; and that it created more protection for both water quality and the environment of the lake.

Mr. McReynolds stated the land was drained by a large number of streams, and contained steep land that made grading for development problematic; that they believed that more protection for water quality, wildlife habitat and ecosystem health would be achieved if certain actions were taken; that they concluded that none of the area be zoned for less than one house per one acre, that the section on the Map located on Wake Road in the extreme northeast section of the planning map be zoned one residence per five acres, that the section on the planning map located at the top north side where O'Kelly Road and NC #751 met be zoned one residence per five acres, and that no mixed-use development zoning be located anywhere in the planning area. Mr. McReynolds also recommended the protection of 100-foot native forested stream buffers around all perennial and intermittent streams.

Mr. McReynolds stated virtually all new development being built near Jordan Lake had created large plumes of muddy water that degraded wildlife and recreation areas; that they could not count on existing sedimentation control ordinances and current resources to carry out inspection and enforcement to stop more mud from new major subdivisions; and that he urged the Town of Cary and Chatham County to consider new regulations to limit the amount of "open dirt" when developments were built, noting that was an effective way to reduce sediment erosion leaving a construction site.

**Howard Stier**, 985 Holland's Church Road, Apex, NC, agreed with much of what had been said regarding protections necessary around the lake. He read an excerpt from a document that stated that development should be planned so as to protect the heritage and rural character of the County. He stated that in order to preserve that heritage and character, they had to take charge of their own destiny; and that that required good planning and not allowing developers to come in and define it for them.

Mr. Stier stated that he supported zoning that provided for one house for every five acres and extending that as far as possible to the eastern side of the map; and that if that was done, then they would be preserving the heritage and rural character and providing a quality of life that was consistent with the rest of the County.

**Kathy Seaton**, 3269 Chicken Bridge Road, Pittsboro, NC, stated that she agreed with comments made by conservationists and would not reiterate them. She stated that they needed to protect their water quality and environmental quality for the benefit of all citizens of the County; that she also favored one residence for ten acres in that area; and that a unified plan was needed for the maximum protection of the lake and the surrounding area.

**Steven Due**, 8165 Wake Road, Durham, NC, asked that the Board protect Jordan Lake and its natural resources. He stated that it was a beautiful area that provided many opportunities; and that development would happen, but at the same time, natural resources needed to be protected.

**Jeffrey Starkweather**, 590 Old Goldston Road, Pittsboro, NC, stated that he supported the New Draft Map with one residence per five acres and one residence per ten acres around Jordan Lake. He also suggested consideration of a conservation overlay zone. He noted that every community had a right to determine its own character and was pleased so many speakers had agreed that they wanted to preserve the rural character; that he suggested an urban growth boundary with Cary and then a rural buffer that would preserve Jordan Lake and preserve the rural character; and that if one allowed more density, sprawl would be encouraged.

Mr. Starkweather stated one frequently heard the argument that different types of housing choices should be provided; that he believed that if someone wanted to live in a dense environment, they should live in Cary; that a conservation overlay zone would require a Conditional Use Permit, which would allow elected officials, advisory boards, and the public the opportunity to structure the development that took place in that zone; and that there were major benefits to get from this and one was to make sure that when they did a joint land use plan, that the goals they wanted to achieve were clearly stated, so that when

Cary elected a new Board and wanted to make changes, they could then be reminded of those goals.

Commissioner Barnes commented that Jeffrey Starkweather had turned sixty this week, and wished him a happy birthday.

**Eileen Evans**, 121 Indian Creek Lane, Apex, NC, stated that she and her husband favored the third option. She stated that after the owner of the 45+ acres had requested annexation by the Town of Cary, she and her husband had discovered there were State statutes that required that if such property was located in a subdivision, then all owners of property in the subdivision had to agree to the annexation and the entire subdivision would be annexed; and that she had never been asked if she favored annexation, adding that Cary had denied the request.

**Bill Hancock**, 2037 Horton Pond Road, Apex, NC, stated that he and his family owned about 100 acres near the area in question; that they preferred the one house to every five acres option; and that his belief was that this meeting had not been well-advertised, noting he had learned about it through an email.

**Lora Schlosser**, 470 Quail Ridge Drive, Apex, NC, stated that many had spoken about the quality of life, but she wanted to speak about quantity which was a finite resource. She stated that if high density happened between Cary and Chatham County, she did not believe they would be drawing water from the lake; that rather, they would likely have wells; and that such development may lower the water table but it would not draw directly from the lake.

Ms. Schlosser stated regarding the quality of life, her property backed up to a subdivision that she believed was one house to every five acres; that she said that that had not negatively impacted her family's quality of life; that there was no light pollution experienced in other areas; and that she was also against a commercial area being included in the plan, and did not want to experience increased traffic on neighborhood roads.

**Bill Sommers**, 1067 Fearrington Post, Pittsboro, NC, stated that he wanted to identify the fact that Cary, Apex, Morrisville, and Holly Springs had banded together to build a wastewater facility; that if approved, over the next 20 years they would have spent over \$70 million in two stages that would treat 30 million gallons per day; that if that capacity proved not to be enough, then they would need additional facilities; and that meant while development was being made possible here, Cary was spending an extraordinary amount to make it possible to provide wastewater facilities.

Mr. Sommers stated that the wastewater treatment plant, which would be one of the largest in the State, would use so much of the water from Jordan Lake, it would leave only a "fingertip" for use by Chatham County; that one had to realize that Cary was building that facility to plan for future planned growth, and that meant it was heading Chatham's way; that he believed there would be a conflict between Cary and Chatham County at some point in the future; that some effort had to be made to balance what would happen in the next twenty years in the key area of wastewater treatment; that this area was a very strategic location for the proposed growth; that it should be remembered that the affluent material from that wastewater treatment plant would have to flow through Chatham County; and that he asked the Board to consider all of those issues.

**Pat O'Neil**, 762 Wooded Lake Drive, Apex, NC, stated that he was a resident and a developer; that he observed that many of the projects in the area averaged one residence to five acres; that they had put in controlled areas to protect the environment and had recognized the required buffers; that once annexation took place, it would be a difficult door to shut; that Cary would have already brought water and sewer to those areas and the rationalization would be to continue that through future annexations with higher densities; that he recommended staying with no more than two residences for every three acres; that it should increase to four and five acres the closer one got to Jordan Lake; that that would protect the watershed area; and that, as a developer, he had found that one could do proper development and protect the environment at the same time.

**Martha Girolami**, 473 Mt. Pisgah Church Road, Apex, NC, stated that she supported the one dwelling per five acres option and when more protection was needed then she would support the one dwelling per 10 acres option; and that they needed to take into consideration homeowners that needed to have family nearby, so in some cases more dwellings should be allowed. She stated that the Jordan Lake area was an environmental disaster area, and explained impacts when dry spells were experienced and the effects of mud that was directed into the lake from other areas. She stated that grave environmental harm had already been experienced and they did not yet know what the impact of that would be; that what would really hurt the lake was more cars with more pollution; that the only protection for the lake was to keep the area as low density as possible; that Jordan Lake was more than just drinking water and it needed to be protected.

Ms. Girolami stated that it was imperative to get Cary to agree to the lowest density possible. She said she did not want to see the lake “puddle up and become stinky,” but they were on that trajectory and it must be stopped.

Chairman Thompson thanked all speakers for their comments, adding that the Board took this issue seriously. Chairman Thompson reiterated the process, noting they would begin consultation with the Planning Department to identify the best zoning for the area. He stated that he had campaigned for office because he had seen the record of development, which in some cases, was out of control and he thought about future generations that would live in the area. He stated that he enjoyed the rural character and wanted that maintained; that it had been mentioned that September was the end of the voluntary stay on annexations; that he believed the Board should strongly urge Cary to extend that voluntary stay until April or until such time as the Plan was finalized.

Commissioner Lucier stated that he agreed with Chairman Thompson’s remarks. He stated that he had campaigned on updating the Land Use Plan and seeing it implemented; that there was no more important area for that to be applied to than the area being discussed at the night’s meeting; and that they would do what they could to see that the vision that was embodied in the Land Use Plan was put into play here.

Commissioner Lucier stated that they needed to protect and cherish the lake and not abuse it; that he would do what he could to do that and to support the Board in that endeavor; that he agreed that no high density should occur around the lake and believed they would have to move forward and make recommendations to Cary about the future of the area around the lake.

Commissioner Lucier suggested placing on the agenda for the May 7<sup>th</sup> work session, the issue of revisions to the Plans before the Board and then sending recommendations back to Cary. He thanked all those who had attended the night’s meeting stating that he looked forward to working with them in the future.

Commissioner Vanderbeck echoed comments from the previous Commissioners. He said he had been struck by the comment made by Ms. Girolami that Jordan Lake was more than just drinking water, adding that it must be protected. He stated that if they lost their natural resources, they would never get them back, so it was critical to have a comprehensive plan now.

Commissioner Vanderbeck stated that it had been stated by a speaker that this meeting had not been well-advertised. He stated that if anyone present knew of someone who had not had an opportunity to provide input that they be asked to send their comments to the Board; and that there would be other opportunities for the public to weigh in on this issue as they moved forward. He thanked everyone for attending.

Commissioner Barnes stated that this had been a long fight as well as a personal one. He stated that one was not supposed to let his emotions interfere as an elected official, but sometimes that was not possible; that this issue had been around for quite some time, and until the current Board was in place, there had been no progress. He commended the members of the Board, plus the staff, for their work on this issue stating that there was no simple solution.

Commissioner Barnes noted that there would be a wastewater treatment plant in New Hill. He stated that if one thought about what Chatham County was like forty years ago, they would likely be discouraged; that he was concerned about what it would look like forty years from now; that if they don't try and put a lot of effort into it, Chatham County would be a disaster; that it would not be simple and he did not have all the answers, but he did not intend to fall by the wayside; that they had to talk straight with Cary and if it was abrasive, then so be it; and that his answer was simple, and that was to stay out of Chatham County.

Commissioner Cross thanked everyone for attending, and said he looked forward to seeing everyone at the next hearing.

**ADJOURNMENT**

Chairman Thompson adjourned the meeting at 9:02 PM.

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Carl Thompson, Chairman

ATTEST:

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