

she urges the United Way process be examined; and that 6) Please invest in a stand-up microphone for the podium.

**Jeffrey Starkweather**, 590 Old Goldston Road, Pittsboro, NC, stated that he felt the largest priority is the amount of development and the budget should focus on increasing economic development; that there is no more important factor in economic development than the quality of the schools; that there should be a citizens budget advisory committee; that the non-profit funding process with the United Way needs to be examined; that there is no greater return on investment, second to the schools, than the non-profits; that one non-profit about which he is concerned is JOCCA; that their funding is going down; and that the Chatham County Arts Council is more likely to attract economic development.

### **PLANNING AND ZONING**

**Conditional Use B-1 Business District Request by John W. Blair:** Consideration of a request by John W. Blair for a Conditional Use B-1 Business District on 10.613 acres, located at the southeast intersection of SR #1700, Mt. Gilead Road and SR #1714, Hatley Road, New Hope Township

This item was postponed until the June 19, 2006 Board of Commissioners' meeting.

**Conditional Use Permit for Self-Storage Facility by John W. Blair:** Consideration of a request by John W. Blair for a Conditional Use Permit for - Self-storage facility/mini-warehouse storage facility with related retail and services (i.e. moving truck rental) and - Uses and structures customarily accessory to any permitted use - specifically for boat recreational vehicle and other self-storage and an associated residential use, on 10.613 acres, located at the southeast intersection of SR #1700, Mt. Gilead Road and SR #1714, Hatley Road, New Hope Township

This item was postponed until the June 19, 2006 Board of Commissioners' meeting.

### ***Public Hearings:***

**Public Hearing for Conditional Use B-1 Business District:** Public hearing to receive public comments on a request by Jesse Fearington, c/o Nicolas P. Robinson, Attorney, for a Conditional Use B-1 Business District on approximately 60 acres, located at the intersection of US #15-501 and SR #1527, Morris Road, Baldwin Township

The Chairman opened the floor for public comments.

**William Sommers**, 1067 Fearington Post, Pittsboro, NC, stated that he is an interested party; that the proposed buffer zone of 50 feet is not sufficient to provide adequate screening; that a 150 foot buffer is more appropriate; that the traffic count study conclusion is that all intersections will function within acceptable levels of service; that there is no detailed analysis of the potential traffic problems; that when Briar Chapel is up and running and other developments are not considered; that the wastewater disposal submission is vague; that the Fearington permit may need to be amended; that the vertical planning does not bode well for the long-term; and that the long-term affects of these concerns must be considered.

**Paul Ferguson**, 317 Kentview Drive, Pittsboro, NC, stated that he is a resident of Kentview South; that he and his wife are opposed to the project; that this project is a strip mall; that the Land Use Plan (LUP) extols a rural character; that this strip mall does not preserve the rural character of Chatham County; that he plans to die in Chatham County and have his ashes scattered on a forest, not a strip mall.

**Walter Robertson**, 94 Donald Drive, Pittsboro, NC, stated that he is a resident of Kentview South; that at the present time, there are seven convenience stores within seven miles; that Briar Chapel commercial area will be less than a mile; that those that moved there did so for the rural character; that he asked the Board to consider not putting a strip mall in that would need water when there are people that need it.

**Tom Vanderbeck**, 8180 Old Graham Road, Pittsboro, NC, stated that the 15-501 corridor is becoming one long series of strip malls from the Orange County line to the

Highway #64 bypass; that the citizens of Chatham County want comprehensive planning; that a Commercial Corridor Ordinance for the major four land roads of #421, #64, and #15-501 was requested in September 2003; that a commitment by the Board of Commissioners in February 2004 indicated that this work was supposed to be initiated after completion of the work on the Compact Communities Ordinance; that nothing has been done and the appearance of the 15-501 corridor has steadily deteriorated; that such an ordinance covering the commercial corridors is totally consistent with the LUP; that it is time to implement what the citizens have repeatedly requested; that in the interim, Chatham County should not approve any zoning changes or conditional use permits for these area until such a Commercial corridor Ordinance is crafted in accordance with the guidelines of the Land Conservation and Development Plan; that this will not restrict growth, since existing uses under the current zoning ordinances are acceptable; that the Land conservation and Development Plan is very clear about not wanting these corridors to become a series of strip malls; and that it is beyond time for this ordinance to be developed and implemented.

**Bob Eby**, 19 East Madison, Pittsboro, NC, stated that the County does not need another commercial strip along US #15-501; that each project is justified in its own context, never in the context of overall planning for this corridor; that the Board has already approved a large retail development just a few hundred yards away as part of Briar Chapel; that if Fearrington Place is approved then the next landowner will justify rezoning his land by referring to the retail properties that are adjacent; that the RA-40 districts will topple one after the other; that as in all the preview cases, the applicant makes his case that this is a perfect location for his project; that it will be a traffic lighted intersection that cries out for an economic development center; that he says that it will be consistent with the country casual atmosphere existing with Fearrington Village, but then cites Fearrington Village as being a commercial/retail site; that the Fearrington Village retail center is well-screened from the roadway; that the applicant speaks of providing fifty feet of screening from the #15-501 right-of-way, yet his proposal calls for only a fifty foot set back, not a buffer; that there is a key difference between a buffer and a setback; that that is a lesson he learned with Chatham Downs; that because he proposes a set back, he states that he will have parking lots on his out-parcels within ten feet of the highway's right-of-way; that not much screening is possible in ten feet; that to date, the developer has no tenants signed up; that he plans to sell off the four out-parcels that abut #15-501, but none of them are sold; and that he asks for forty-eight businesses to be permitted and wonders what might eventually appear if the project is approved. He asked the Board to not rezone this property to B-1.

**Nick Robinson**, PO Box 607, Pittsboro, NC, stated that stated that he represents Jesse Fearrington; that much of the land that currently comprises the Fearrington Village community was formerly Fearrington family land; that Mr. Fearrington is requesting that the County rezone an approximately thirty acre parcel from RA-40 to Conditional Use B-1; that Mr. Fearrington is simultaneously requesting a conditional use permit for a specialty grocery store retail center along with related retail and other uses, the details of which will be addressed in the public hearing relating to the requested conditional use permit; that the Chatham County Land Conservation and Development Plan (the "Land Use Plan") sets forth two fundamental policies, both of which are met by this proposal; that the first general policy is that land development will reflect balanced growth by, in part, ensuring that development is "guided to suitable locations and is designed appropriately." *Land Use Plan, p. 1*. The first important element of this analysis is to put the intersection in context of what is already there.; that there is a traffic light at the intersection which forms the gateway to Fearrington Village; that also located at or near the intersection are significant existing commercial and similar uses; that the attached map shows these parcels highlighted; that Fearrington Village has a significant commercial component located just off the intersection; that just to the south is a twelve acre parcel containing the Sawyer Pest Control building; that it is important to note that that property, all twelve acres, is zoned for straight B-1 business uses – not for conditional use; that behind the Sawyer building is a Sprint PCS tower site; that also, just across Morris Road from this proposed project is the North Chatham Fire Department; that this parcel is ideally suited to a commercial use with frontage on both US #15-501 and Morris Road; that this is a rare combination of attributes along the #15-501 corridor because of the divided highway; that most intersections with the highway do not have a traffic signal and a median cut; that in fact, there is a five mile stretch of road between Northwood High School and Fearrington Village that does not have a single traffic light; that that same stretch of road has eleven median cuts; that the point is that the signalized intersection is always the

more appropriate intersection for commercial uses; that as such, the parcel is ideally suited for business uses.

Mr. Robinson stated that in addition, the Land Use Plan specifically allows for shopping centers within "compact community corridors."; that the Land Use Plan defines "compact community corridors" as being located "along US #15-501 north of Pittsboro" (Land Use Plan, page 2); that the chart on page 5 of the Land Use Plan specifies that shopping centers are encouraged within the compact communities corridors; that this proposed project is enhanced by the fact that it is consciously integrated with the healthy mix of residential and other commercial uses existing in the area, just as is contemplated by the ordinance; that in many ways, the orientation of this project is the prototypical and sought after "clustered and mixed use development," referred to in the Land Use Plan; that it is located in a unique part of the County that combines a variety of nearby residential and commercial uses; that for example, the project has Fearrington Village nearby which is comprised not only of single family residential but also, multi-family and high density in the senior care center known as Galloway Ridge; that also nearby are the Creekwood Estates Subdivision and the Kentview South and North Subdivisions; that blending this high-quality, non-strip center with the existing mixed use attributes of the surrounding neighborhood is a natural fit; that there is a demand for commercial services and retail at this location; that the project promotes the Land Use Plan goal of designing commercial crossroad business centers in forms that support the rural character of the environment; and that this location is ideally suited for conversion to a Conditional Use B-1 District. He requested that the Board approve the request.

**William Powell** stated that he is the Chairman of the Mt. Pleasant United Methodist Church, Board of Directors; that a church member bequeathed property to the church last year; that there were a number of individuals interested in the property; that the church has a strong commitment to the community; that the offer accepted by Mr. Fearrington provided a return that was not just financial; that the same discussion happened when Fearrington Village was discussed; and that he encourages a favorable consideration of the request.

**Richard Whitfield**, 6015 Farrington Road, Chapel Hill, NC, stated that he is a member of Mt. Pleasant United Methodist Church; that economics and the way the state has changed makes Chatham County attractive to those moving in; that it makes sense for this property to be used in a commercial way; and that Mr. Fearrington is a trustworthy and benevolent citizen in Chatham County.

**Rita Spina**, 12 Matchwood, Pittsboro, NC, stated that the rezoning request was never considered in the Land Use Plan; that the project states that it is presented like Fearrington; that Fearrington does not have commercial property visible to Highway #15-501; that there are four out-parcels which are included for future use and would be the first thing seen from all directions; and that she does not agree with the zoning with out-parcels with no definitive use specified.

**Gretchen Smith**, 598 Jones Branch Road, Chapel Hill, NC, stated that she lives two miles north of Fearrington Village; that she and her husband often ride bicycles in the Fearrington Village area; and that she would like to suggest that if any proposed business development is approved, that a pedestrian tunnel be placed under Highway #15-501 to provide a safer crossing for pedestrians and bicyclists between any proposed business development and Fearrington Village.

**William Martin Mitchell** stated that he has moved four times in the last twelve years to get away from Chapel Hill; that he is against any further development; that this property backs up to his; that he lives in the Forest Creek Subdivision, and that if they take away his forest and pollute his creek, he'll have nothing.

**Dale Smith** stated that his comments are specific to the Fearrington Place conditional Use Permit issue, but applies equally well to other issues on the agenda; that in his judgment, the recent primary election results establish a condition that has been a clear statement by voters that greater care needs to be taken on development issues such as this and they have selected candidates who will constitute a majority vote on all issues; that while planning and discussion could continue, it should be open to the elected candidates, the continuing commissioners clearly express their approval of the proposed actions.

**BREAK**

The Chairman called for a short break.

**PLANNING AND ZONING**

***Public Hearings Continued:***

**Shakori Hills:**

Chairman Morgan apologized for the miscommunication with Shakori Hills. He stated that he had informed Ms. Douglas that someone would get back with her with pertinent information when the Board had received information from the Sheriff's Office; that this information has not yet been received; that they are still working on this matter; and that it will be on the June 19, 2006 Board of Commissioners' Agenda.

**Public Hearing for Conditional Use Permit for Restricted B-1 Uses:** Public hearing to receive public comments on a request by Jesse Fearrington, c/o Nicolas P. Robinson, Attorney, for a Conditional Use Permit for restricted B-1 uses, (see list of 48 requested uses out of possible 78 uses), on approximately 60 acres, located at the intersection of US #15-501 and SR #1527, Morris Road, Baldwin Township

The Chairman opened the floor for public comments.

**Nick Robinson**, PO Box 607, Pittsboro, NC, introduced members of Mr. Fearrington's development team. He stated that in designing the project, they held an open house prior to filing for all adjoining and invited representatives of the Fearrington Home Owners Association to attend; that it was well-attended; that there were many who expressed positive feelings about the project; that some concerns were raised as well; that as a result of that meeting, they made some changes to the site plan: 1) Morris Road entry shifted; and 2) Enhanced buffer on Morris Road; that they also met with the Appearance Commission on May 10<sup>th</sup>; that they examined the project in some detail as to landscaping, lighting and signage and gave a very favorable review; that the project fills a unique niche in the marketplace with a specialty grocer anchor; and that the prospect of tenants such as a drug store, a bank, and a restaurant have generated enthusiasm by many nearby residents.

**Mark Ashness**, 11000 Regency Parkway, Suite 410, Cary, NC, stated that there are two primary points of access; that at the community meeting there was concern about lined up roads; that the road has been moved; that the fencing will be further off the road and they will plant street trees for added buffer; that they are also proposing 150 foot landscape buffer on the residential sides; that the parking field will be vegetative; that there will be no pass-through parking; that there are two water quality ponds; that they will comply with the draft lighting ordinance; and that they are proposing two signs that are of the same scale as Fearrington.

**Rynal Stephenson**, Ramey Kemp & Associates, Inc., 4928-A Windy Hill Drive, Raleigh, NC, stated that he is the traffic engineer on the project; that they conducted a traffic count at the morning and afternoon rush hours; that they projected out through 2009 and considered other projects like Briar Chapel; that all of the intersections operate at an appropriate level of service; that they are proposing improvements to the roadway to help traffic move more smoothly; and that typically when it is busier for commuter traffic, it will be less busy for commercial use.

**Harry Miley**, Miley Gallo & Associates, LLC, 4875 Forest Drive, Suite 204, Columbia, SC, stated that he is an economic consultant; that there will be two phases to the economic impact; that the spending and re-spending of the money during construction will also create jobs; that after build-out, the current plan would generate \$65 million in activity; and that about 180 new jobs would be created on an on-going basis.

**Nick Erpelding**, Erpelding & Associates, PO Box 1153, Pittsboro, NC, stated that he is a commercial property appraiser; that he specifically looked at whether the development would negatively affect residential property values; that in the Governors Park area, the commercial development did not affect values or sales rates.

**John Gray**, JDG Consultants, 123 Cub Creek Extension, Chapel Hill, NC, stated that his firm did the preliminary review of the wastewater treatment facility; that the recommendation of the field team is to consider a drip irrigation system; that this will maximize the safety of the system; that the wastewater will be treated before it enters the irrigation field; and that the grass field will continue to exist.

**Bill Hicks**, Income Properties of Raleigh, 1049 Dresser Court, Raleigh, NC, stated that he is a commercial real estate broker, and that he concludes that this site meets the criteria for specialty grocery retail.

**Don Waltz**, Parker & Associates, 14500 Beach Boulevard, Jacksonville, FL, stated that he compiled market data as it relates to supply and demand for the proposed project. He presented a slide presentation of an economic market analysis.

**Nick Robinson**, stated that on behalf of Mr. Fearrington, they respectfully submitted 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; that Mr. Fearrington's project will enhance the health, safety and welfare of the citizens of Chatham County by providing a service for which there is a high demand in a sensible location that will have minimal impact on its neighbors; and that they respectfully requested that the proposed conditional use zoning district and conditional use permit be granted.

Mr. Robinson further stated that, so that he would 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.

**Charlie Casper**, 300 Morris Road, Chapel Hill, NC, stated that he is an adjacent landowner; that he has 6.5 acres; that he has ¼ mile bordering the strip center; that his property abuts the future development/septic field; that the surrounding subdivision is named for the previous owners of his property; that he walked his property on April 29<sup>th</sup> with Jesse Fearrington; that all the vegetation shown in his pictures will be coming out; that his house sits on a hill and he can see the surrounding area; that this does not protect the character of the area; that his property will be adversely affected; and that it is degrading to the neighborhood. Mr. Casper asked that his photos be entered into the record.

**Jeff Scheuring**, 101 Kentview Drive, Pittsboro, NC, stated that he is a resident of Kentview; that he was over at Governors Summit and there are differences in it and the proposed development; that they were told that the Sawyer property was light commercial; and that he would not have bought property there if he had known this development was proposed.

**Myra Halpin**, 270 Spider Web Lane, Pittsboro, NC, stated that she and her husband are adjacent landowners; that she had some questions for the Board; that all the vegetation seen from her deck will be the back of the shopping center; that her farm pond was built and designed to handle all of the run-off; that if the area for the shopping center is paved flat, is her pond going to dry up; that her second income of pick-your-own blueberries and strawberries are compromised by the proposed drip system. She asked if this property is zoned commercial, could the Board assure her that 1) That a 150 foot buffer with earthen berm and landscaping would be sufficient so that the integrity or character of the surrounding area would not be affected; 2) The grading and altering of the topography will not dry up the pond or affect the water quality which will effect the integrity or character of the surrounding or adjoining districts, and will be detrimental to the health, safety or welfare of the community; 3) This strip mall will not adversely affect their property value; 4) In five years, if Board members would bring their children/grandchildren to eat blueberries and fish and swim in the pond.

**Rick Lessard**, 420 Kentview Drive, Pittsboro, NC, stated that he lived in the Kentview Subdivision; that he specifically retired here because of the rural character of the area; and that he hopes that #15-501 is not turned into a large strip mall.

**William B. Sutton**, 21 Kentview Drive, Pittsboro, NC, stated that he lives on the corner of Morris Road and Kentview Drive; that this area is going to change; and that the original developments by Jesse Fearington are being ruined by this development.

**Walter Robertson**, 94 Donald Drive, Pittsboro, NC, stated that his property backs up to where the spray field is; that he did a lighting and noise study; that the noise meter or light meter wouldn't even register in the current situation; that if the proposed development it built, that the convenience store be taken off the list; that Briar Chapel has a large commercially zoned area; that the speed limit is incorrect in the traffic study; that the sign could potentially be very large based on their calculation; and that the landscaping at Chatham Downs is dying.

**Anna Rhesa Versola Kallam**, 163 Kentview Drive, Pittsboro, NC, stated that there is a creek that runs through her front yard; that her daughters enjoy playing in the creek; that she is concerned with the shopping center and where the water flow is going to go; and that she would like to see a report that shows her drinking water will be okay.

**Mary Murray**, 287 Morris Road, Pittsboro, NC, stated that she lives across Morris Road; that she feels that the proposed project will negatively impact the rural character and health and welfare of the area; that the development will bring light and trucks; and that the refrigeration units will also cause noise pollution.

**Andrea Ferguson**, 317 Kentview Drive, Pittsboro, NC, stated that she is a resident of Kentview; that she wants to address finding #3; that research shows a correlation between neighborhood burglary rates and openness to traffic; and that the new entrance/exit still provides a line of sight to their neighborhood.

**Bill Murray**, 287 Morris Road, Pittsboro, NC, stated that he was in attendance to talk about finding #2; that when he and his wife moved to the area, the implication was that the property across the road would not be developed commercially; that no more service stations are needed in this area; that there are four potential facilities existing in the area that are similar to the specialty grocery in the development; and that a strip mall will adversely affect this property.

**Robert Eby**, 19 East Madison, Pittsboro, NC, stated that he is a member of the Board of CCEC; that he reviewed the proposal before it was submitted; that the businesses have not been designated specifically; that a convenience store is on the list of acceptable uses; that the Whole Foods requirements for a new store is not met at this location; that the application states that it is a setback, not a buffer; that this project does not meet all the five findings; that 1) That the applicant must provide a 150 foot buffer, not set-back, from the #15-501 and Morris Road right-of-ways; 2) No gas station or auto repair business be permitted; and 3) Require another public hearing, when the applicant is ready to submit plans for preliminary approval.

**P.H. Craig**, 7503 Sunrise Road, Chapel Hill, NC, stated that he sold the property that is the Sawyer property; that he was in attendance to talk about two landowners in particular; that he has not seen another similar commercial project abutting against well-established country estates; that this is a sizable commercial proposal with adjoining and abutting property lines that abut the Halpin estate on two sides; that their property would also border large septic field systems and their view would be looking up to the rear of the commercial development where the trucking entrances would probably be located; that the Halpin lands topographic level will lie considerably below the level of the parking, if the sloping is infilled; that the rear of the closest buildings could possibly extend some 70 or so feet above the ground level of the Halpin Estate; that it will be even more pronounced when and if the topography is completely rearranged; that it is hard to envision exactly what that will look like even though there is a planned 15- foot buffer; that that elevation factor and a completely different zoning use impairs the integrity and character of the adjoining tracts to the West which include the Casper and Halpin Estates; that the properties are like night and day; that the Casper property has been updated with great care and quality; that these two properties will suffer monetary damage from this development; that the Halpin house is oriented to the pond; that there is a possibility that the pond will go dry since it may lose its catch basin; that the catch basin obviously included a large part of the proposed commercial site; that the only view from the house that is left away from the shopping center will then be destroyed; that it

is extremely rare for such a large commercial project to go into such an area that does not have public sewer; and that it is his final opinion that this proposed commercial development will considerably decrease the property values of the Halpin Estates, thereby impairing the integrity and character of this property.

### **BREAK**

The Chairman called for a short break.

### **PLANNING AND ZONING**

#### ***Public Hearings Continued:***

A question and answer period ensued.

The Chairman closed the public hearing.

**Public Hearing for Revision to Existing Compact Community Conditional Use Permit:** Public hearing to receive public comments on a request by Mitch Barron, Newland Communities, on behalf of NNP – Briar Chapel LLC, for a revision to the existing Compact Community – Conditional Use Permit (CC-CUP) at the intersection of Andrews Store Road and Parker Herndon Road

The Chairman opened the floor for public comments.

**William Sommers**, 1067 Fearrington Post, Pittsboro, NC, stated that he was representing the Fearrington Home Owners Association (FHA); that the FHA's position is that the proposed revision to the existing Community Conditional Use Permit be held in abeyance until such time as Newland Communities receives: 1) A Section 401 Water Quality Certification for the NC Division of Water Quality; and 2) A Section 404 Work Permit from US Corps of Army Engineers; that since the Corps of Engineer's public notice of Newland's application was issued in June, 2005, the Corps held an informal discussion session regarding the application while the NCDWQ held its own public hearing in December, 2005; that many other concerns were expressed, especially at the DWQ public hearing; that as a result of these meetings, the FHA, together with the CCEC and the Haw River Assembly, have proposed a series of important recommendations aimed at mitigating potential problems with the proposed Briar Chapel Development; that to this end, detailed conditions have been recommended for inclusion in DWQ and the Corps of Engineers authorizations; that if either the DWQ and/or the Corps of Engineers include one or more of the proposed conditions to the expected authorizations, they may involve inconsistencies or conflicts with actions now being proposed by Newland Communities and which are currently before the Chatham County Board of Commissioners; that since the two agencies are still reviewing Newland's applications, it is, they believe, the interest of all concerned that no further action on this request be taken; and that this will not affect Newland's to any significant degree since they cannot generally proceed without the work permits. He expressed appreciation to the Board for their consideration.

**Gray Styers**, stated that he is representing Newland Communities; that the proposal is to remove a road that was in the original master plan; and that this will improve the safety of the traveling public. He asked that Exhibits #1, #2, #3, and #5A be entered into the record.

The Chairman closed the public hearing.

**Public Hearing on Proposed Text Amendments to Chatham County Zoning Ordinance:** Public hearing to receive public comments on proposed text amendments to the Chatham County Zoning Ordinance to comply with 2005 NC General Statute updates

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.