



**CHATHAM COUNTY
BOARD OF COMMISSIONERS
AGENDA ABSTRACT**

ITEM NUMBER:
MEETING DATE:
1-16-07

PART A

Subject:

Request by RLA Development Company, LLC on behalf of Chatham Land & Timber for subdivision sketch design approval of **“Parker Springs Subdivision”**, consisting of 50 lots on 87 acres, located off SR-1700, Mt. Gilead Church Road, New Hope and Williams Townships.

Action Requested:

See Recommendations.

Attachments:

1. Major subdivision application.
2. ArcView map, parcel # 17425.
3. Soil Scientist report.
4. E-mail from Jane Pyle, Chatham County Historical Association.
5. E-mail from Angela Flynn, adjacent property owner, dated October 27, 2006.
6. E-mail from Laura Davis, adjacent property owner, dated October 28, 2006
7. Memorandum dated, November 15, 2006 from Jacquelyn Presley, Urban Wildlife Biologist, NC Wildlife Resources Commission.
8. E-mail from Jason and Gloria Garver dated 12/5/06.
9. Minority Report, dated December 11, 2006, prepared by Sally Kost and Chris Walker.
10. Sketch design map titled “Parker Springs Subdivision”, prepared by Development Consulting Services, Inc., dated August 21, 2006 revised 10/6/06.

Submitted By:

Keith Megginson, Planning Director

Date

County Manager Review:

Charlie Horne, County Manager

Date

This abstract requires review by:

County Attorney

Date Reviewed

Finance Officer

Date Reviewed

Budget Officer

Date Reviewed

PART B

Re: Parker Springs Subdivision

Introduction / Background / Previous Board Actions:

See major subdivision application and sketch design map, dated revised 10-06-06, for background information. The property is zoned RA-40, with a watershed designation of WSIV-PA, county water will be utilized.

This issue was originally on the November 6th Planning Board agenda, but was pulled off at the beginning of the meeting due to insufficient adjacent property owners' information. The developer furnished the required additional property owners' names and addresses along with a revised sketch plan and the issue was reviewed during the December 5th Planning Board agenda.

This issue was tabled during the December 18, 2006 Commissioners' meeting. Please refer to page eight of the minutes of the meeting for discussion during said meeting. According to the County Subdivision Regulations the Board has 45 days from December 18 to make a decision on the request.

Issues for Further Discussion and Analysis:

The developer is requesting sketch design approval of 50 lots on 87 acres to be accessed by a state maintained, public roadway off SR-1700, Mt. Gilead Church Road. Dedication of public right-of-way has been provided to the adjoining properties of Cooper Family, LLC, parcel #17357, 130 acres; the Phillip Corn property, parcel # 17416, 63 acres; and to the Haw River Baptist Church property, parcel 62792 as shown on the sketch plan. The Cooper property received a zoning approval on October 16, 2006 from the Board of County Commissioners for a Conditional Use RA-90 zoning district (previously a RA-5 zoning district) with a Conditional Use Permit for a 63 lot subdivision.

Parkers Creek, a perennial flowing creek, crosses the property. The Chatham County Watershed Protection Ordinance, Section 304, Buffer Areas Required, states in part "A minimum fifty (50) foot vegetative buffer for development activities is required along all perennial and intermittent waters indicated on the most recent versions of U. S. G. S. 1:24, 000 (7.5 minute scale topographic maps or as determined by local government studies". Please see Section 304 for complete language. The developer has voluntarily shown a 100 foot wide vegetative buffer (each side of creek for a total of 200 feet) on the revised sketch map, dated 10/06/06. The WSIV-Protected Area watershed district requires a 50 foot wide buffer. The adjacent property to the east, Cooper Family / Contentnea Creek, requested a zoning district change and a conditional use permit. Per the approved RA-90 CUD zoning / conditional use permit requirements for the request, the developer must maintain a 100 foot per side vegetative buffers along the portion of Parker's Creek crossing their property.

Staff review of the Natural Heritage Program data for the subject property indicated the property to potentially contain habitat for the Loggerhead Shrike, (coverage for this is countywide). The majority of the property falls into the Big Woods Natural Area as does a portion of the existing Monterrane development to the north. Staff does not think that an environmental impact assessment is warranted on this property due to the acreage of the property, the limited number of items listed on the Natural Heritage Program and the developer is establishing a 100 foot wide (200 foot total) vegetative buffer along Parkers Creek which is double the required buffer under the watershed ordinance. Attachment # 7, are comments from Jacqueline Presley, NC WRC, regarding environmental issues associated with development of the subject property and

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Issues for Further Discussion and Analysis – con't

suggestions for the developer to minimize impacts to existing wildlife. Since this is a subdivision issue, the Board can not require the developer to adhere to these suggestions. If he chooses, the developer can incorporate some or all of these suggestions into their private covenants / restrictions.

Adjacent property owners in Monterrane Subdivision have raised concerns including buffering between existing Monterrane and a proposed off-site septic area, privacy, impact on Parker's Creek, density, and whether or not an environmental impact assessment is warranted. See attachment # 5 and # 6. Monterrane Subdivision was developed in 1999 / 2000 and consisted of two phases with 49 lots. The property has a split zoning of RA-40 and RA-5, with the majority of the property being within the RA-40 district. Minimum lot sizes in Monterrane are approximately 2 acres with an average lot size of 4.7 acres. There is a 15 foot wide walking easement along the boundary of Monterrane Subdivision to provide access to various park areas. The developer of Parker Springs has shown a 25 foot wide tree protection buffer on his revised sketch map along the common boundary between the subject property and Monterrane Subdivision.

The developer proposes to extend the 12 inch county water line along Mt. Gilead Church Road from Bynum Ridge Road to the subject property. Utility easements have been provided to the adjoining properties of Monterrane Subdivision, Fearington, Corn and Cooper for possible future extensions of county water lines.

Individual on-site or off-site wastewater systems are proposed for each lot. The proposed off-site areas are shown on the sketch map. Thomas Boyce, Chatham County Soil Specialist, has reviewed the soil scientist report and map, attachment # 3, and found the information adequate for sketch design. The soils map can be viewed on the Planning page of the county web site at www.co.chatham.nc.us under Parker Springs.

The applicant has contacted the Chatham County Historical Association to inform them that there is a cemetery located on the property. Jane Pyle, with the Chatham County Historical Association has visited the site. See attachment # 4. The developer has shown the cemetery location on the sketch design map within a portion of the common open space. Access to the public will be provided via the public road system. The common open space will be maintained by the homeowners association.

During the Planning Board meeting, several adjacent property owners in the Monterrane Subdivision, Angela Flynn, Jason Garver, and Timothy Davis, addressed the Board with concerns regarding protection of rural character, privacy, density of proposed development as opposed to density of surrounding developments, impact of development on Parker's Creek, need for an environmental assessment, off-site septic areas.

Grey Styers, attorney for the applicant, addressed the Board stating that the density is allowed per the RA-40 zoning district requirements, that the developer has voluntarily increased the stream buffer an additional 50 feet (for a total of 100 feet), and provided an undisturbed 25 foot wide buffer along the boundary of Monterrane Subdivision and reminded the Board that this

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request was not a zoning issue and that the developer had met the requirements of the Subdivision Regulations. Scott Mitchell, soil scientist, addressed questions regarding soil conditions. Discussion by the Planning Board followed. Grey Styers, later stated that the developer was also voluntarily willing to provide an additional 25 foot wide structure setback from the initial 25 foot wide undisturbed buffer along the Monterrane boundary (for a total of 50 feet), provide additional erosion control requirements for builders and homeowners on individual lots and that he would provide the Planning Board a site plan at the preliminary review showing the locations of the proposed house sites. Staff reminded the Board that these conditions would have to be placed on the property by way of private covenants/ restrictions and that the county can not enforce these private restrictions.

Staff received a minority report, dated December 11, 2006, prepared by Sally Kost and Chris Walker stating concerns regarding the Planning Board vote on this issue, specifically, the need to require an environmental impact assessment due to potential negative environmental impacts on Parker's Creek. As stated above, the developer has increased the required stream buffer from 50 feet per side to 100 feet per side (200 foot total). This buffer is measured as a horizontal ground distance, not vertical. The minority report states "Under the Chatham County Subdivision Regulations (5.2A) the County can request a full environmental impact statement with a peer review of that assessment." This statement is inaccurate in that Section 5.2A does not require a peer review of environmental impact assessments. In a recent law suit against the County Section 5.2A of the Chatham County Subdivision Regulations was addressed. The issue is whether the County meets the State requirements of having objective triggering criteria for requiring environmental assessments. The section also uses the terms environmental impact assessment and environmental impact statement, which are different. These text issues need to be resolved prior to requiring environmental impact assessments on additional development proposals or the County is vulnerable to additional legal action. Staff is working to have a recommendation for the Board on revisions in the near future. Gunn and Messick have handled the County's legal defense on this issue to date and can provide more detail (possibly in closed session since the case has been appealed to the Court of Appeals). It is the Planning Board and staff opinion based on the development plan, the information available from the State Natural Heritage Program and review by the Wildlife Resources Commission Urban Wildlife Biologist that an environmental impact assessment is not warranted for responsible review.

Recommendation: The Planning Department and Planning Board recommend granting sketch design approval of "Parker Springs Subdivision" with the following condition:

1. The park areas and off-site septic area within Monterrane Subdivision along the common boundary with the subject property shall be shown on the preliminary and final maps