

Public Hearing

Date August 20, 2007

Item # 21

Public hearing to receive public comments on a request for a proposal by the Chatham County Board of Commissioners to amend Section 304 and other portions of the Chatham County **Watershed Protection Ordinance concerning Riparian Buffers Areas**. The proposal increases some existing buffer areas, requires buffers on additional drainage ways, specifies permitted and prohibited uses within the buffer areas, and specifies procedures for review of uses. The proposal also provides a section addressing purpose and intent as well as adding definitions and revising definitions in the Ordinance.

LEGISLATIVE HEARING

Each speaker must sign up in advance of the hearing and his/her comments shall be limited to not more than three minutes. No speaker may yield unused time to any other speaker.

Check One		Name	Complete Address with Zip Code	Phone Number
For	Against			
		Barbara Ostund	114 Holly Glenn Road Pittsboro	(919) 454-8162
		Gretchen Smith	598 Jones Branch Road Chapel Hill	(919) 966-7145
		Bundy Voller	21 Randolph Ct.	(919) 949-1274
		Barbara LORIE	117 Blue Heron Town Pitts	542 2151
		Mary Bastin	22 Fearrington Post Pittsboro	(919) 548-3863
		Tom Dunneagan	c/o P.O. Box 607 Pittsboro	542-2400
		Dave Phillbrook	" "	"
✓		Cynthia Crossen	1116 Marshall Rd. Pittsboro, NC 27312	919-542-3827
✓		Jerry Markatos	800 Rock Rest Rd	542-2139
✓		Del Turner	POB 147 NC 27756	776-0563
✓		Norma Shivers	1354 Hollander Chapel Rel Assoc	362 4 819

Chatham County Board Of Commissioners
Public Hearing
August 20, 2007
Comments by Gretchen Smith

My name is Gretchen Smith and I live at 598 Jones Branch Road in Chatham County. I am here tonight to speak in favor of the Environmental Review Board (ERB) recommendations for amendments to Section 304 of the Watershed Protection Ordinance, and for Environmental Assessment (EA) thresholds for the Subdivision and Zoning Ordinances. As property owners in Chatham County, my husband and I appreciate the hard work of the ERB to protect our quality of life in this county.

Tonight I want to comment on two specific topics related to these recommendations under consideration.

The first topic is conservation. My husband and I live on 11 acres with a stream, Jones Branch that feeds into Herndon Creek and ultimately to Jordan Lake. We are donating a permanent conservation easement along Jones Branch to the North Carolina Ecosystem Enhancement Program (EEP). I would like to see our county government require that developers place stream buffers in permanent conservation easements with a qualified agency willing to accept them. According to Jan Eason, the EEP Property Specialist we are working with, EEP is interested in accepting conservation easements for stream buffers in Chatham County, and I am including his contact information with a copy of my comments. Stream buffers are not really protected unless they are placed in permanent conservation easements with qualified agencies. Stream buffers for which management responsibility is with Homeowners Associations (HOA) are not really protected, since HOA do not have the resources for ongoing monitoring, enforcement, or any necessary restoration. I know from experience – I am president of one.

The second topic is stream buffer widths. I would like to see any ordinance pertaining to stream buffers provide flexibility for the county to require wider buffers than the minimums stated if, for example, a stream is in close proximity to a Significant Natural Heritage Area or steep slopes. If the county does not have the flexibility built into its ordinances to require more than the minimums stated, then the minimum is most likely all that will be done.

Thank you for this opportunity to provide comments.

Gretchen Smith

From: Smith, Gretchen [GDSmith@unch.unc.edu]
Sent: Thursday, August 09, 2007 10:09 AM
To: gretchen_smith@bellsouth.net
Subject: FW: Donations from developers

-----Original Message-----

From: Jan Eason [mailto:Jan.Eason@ncmail.net]
Sent: Thursday, August 09, 2007 10:06 AM
To: Smith, Gretchen
Subject: Donations from developers

The short answer to a question from our conversation yesterday is yes, EEP will accept stream buffers from developers. There is a per acre fee, but it is considerably less than any other qualifying organization would charge. I have a meeting this afternoon to discuss this issue and will give you more details later. I just received an email from you, so I'll read that and respond.

--

Jan Eason
Property Specialist
Ecosystem Enhancement Program
919.715.6822
www.nceep.net

N.C. Ecosystem Enhancement Program



Restoring... Enhancing... Protecting Our State



EEP SCHEDULE OF FEES

EEP uses a fee schedule to determine how much a permit applicant must pay into the NCDENR Wetlands Trust Fund to fulfill compensatory-mitigation requirements. Fees are based on the amounts and types of compensatory mitigation specified in the approved certifications issued by the N.C. Division of Water Quality, as well as permits or authorizations issued by the U.S. Army Corps of Engineers.

EEP annually adjusts the fee schedule for streams and wetlands to account for inflation. The fee schedule was last adjusted on July 1, 2007. The next adjustment will be effective July 1, 2008.

Fee Category	Unit	Fee per Unit
Property Management	acre	\$419
Riparian Buffer	square foot	\$0.96
Stream	linear foot	\$245
Non-riparian wetland	acre	\$14,676
Riparian wetland	acre	\$29,351
Coastal Wetland	acre	\$146,754

Note that payments for wetlands are calculated in increments of 0.25 acres; thus, an application for 0.18 acres of wetland mitigation will be billed for 0.25 acres.

Application of new fees:

Applicants who elect to use the In-Lieu Fee Program will be invoiced based on the fee schedule in place on the date EEP receives a complete permit package (404/401/CAMA, as applicable) from an applicant or applicant's agent. Invoices issued by EEP are valid for 60 days. If an invoice is not paid within 60 days of the date printed on the invoice, subsequent invoices will reflect the fee schedule in place on the date EEP issues a new invoice.

All inquiries related to invoicing should be directed to EEP's In-Lieu Fee Program Coordinator at 919-716-1921 or Kelly.Williams@ncmail.net. Permits may be faxed, mailed or sent by email.

- Comments Sought on Proposed Fee Revisions -- 12/15/06
- Inflation adjustment and the N.C. Administrative Code language establishing EEP's requirement to update its fee schedule
- Return to EEP's Role in Compensatory Mitigation
- In-Lieu Fee Request Form



Barbara Beye Lorie

117 Blue Heron Farm Road, Pittsboro, N. C. 27312

19 August 2007

To: Chatham County Commissioners
Re: County Wide Environmental Protection

I wish to applaud you for forming the Environmental Review Commission. I have been waiting years for something like this to happen. But heretofore we have not been privileged with commissioners who had any interest or knowledge in environmentally protecting our small Chatham County domain on this planet. Finally, when we all recognize that our human degradation to the planet is threatening every facet of our lives, you have taken on the issue and tonight we applaud you.

I also wish to thank the volunteer members of the Environmental Review Commission. I know they have spent hours and hours of their private lives to form the recommendations that we celebrate tonight.

We public find it so difficult to understand why small streams, small headwaters need protection as well as the large lakes, rivers and streams. But thanks to the Environmental Review Board we now understand how fragile all the land is that harbors flora and fauna in our forests and lands at these headwaters. We must protect our wildlife, our wild grasses, herbs, insects, plants, animals, all of it is just as important to our quality of life as anything else. We must learn to live in harmony with all the living world.

I'm particularly impressed with the way trails have been defined and addressed. We all love to walk the trails of our hinterland. But we must also recognize that not every place can have a trail. We must recognize that we cannot have trails along streams and across wetlands. Pollution is a primary concern when we speak about headwaters; trails do not belong where the ecosystem is fragile. We can find other places for our nature walks. We humans for too long taken our privileges for granted. We have assumed that the Earth is ours to do with as we wish. Now, with Global Warming, we must all come together to adhere to a new way of protecting the Earth.

Developers can no longer lay waste to the land as they have for hundreds of years. Their incessant greed and corruption pursuant to money now must be tempered

with protection of the Earth. If they cannot tame their wasteful ways, then perhaps they should go elsewhere to plunder. We are sending them the message tonight that we are abiding by the natural laws of the earth in order for us to keep our water, our air, and our land clean. This seems to be the new message that you commissioners are sending abroad to all who wish to do business in Chatham County.

I heartily approve of the recommendations made by this commission and I hope that you commissioners will do the same. Thank you.

To Chatham County Board of Commissioners
Public Hearing On Recommendations of the Environmental Review Board
For the Watershed Ordinance

By:

Mary Bastin

22 Ferrington Post

Pittsboro NC 27312

bastinm@aol.com

919 932-6612

Commissioners, County Staff, Members of Chatham County Environmental Review Board

My comments on this issue will be brief, since I stated already that I need more information on what the Commissioners envision for the ERB. If it is to serve as an advisory board fine. If you intend for it to write and decide what is in the ordinances that will become law- I want to see a design for the Planning Department, Planning Board and Commissioners - who are ultimately responsible for what becomes written in the ordinances- working with the ERB.

For the changes to have credibility for me, a lot more legal expertise needs to be involved than anything that has been communicated to me at this point.

Also, as I stated previously, builders and developers as well as anyone else who will be affected by the ordinances have a right to a democratic process that includes them in decision-making. This is my opinion goes beyond just being able to speak at a Public Hearing. I believe their needs are a consideration at every step of the way.

Thank you.

Chatham Landholdings, L.L.C.
713 Blenheim Drive
Raleigh, North Carolina 27612

20 August 2007

Chatham County Board of Commissioners
Chatham County
Pittsboro, NC

RE: Comments to the Chatham County Board of Commissioners on the ERB Proposal
for Riparian Buffer Rules

Dear Commissioners:

We have reviewed the ERB proposed rules for riparian buffers and want to offer the
following brief comments.

1 Metrics and a baseline are needed to determine effectiveness of new rules.

When ever new rules are established with that should be some type of evaluation to
determine the effectiveness of the rules and if they achieved their intended goals. Having
a goal of improving the water quality in Chatham County is good but it needs to be
defined to determine if the new rules are having the intended effect.

There are existing data which should be evaluated now to determine and define the
overall quality of the streams in Chatham County. In the future, these same areas or data
need to be re-evaluated to determine if water quality is improving or still deteriorating.
This can then be the justification for changing the rules. For example, maybe the
proposed buffers are too small and need to be doubled. That determination can be better
made with data and the baseline needs to be established now before the rules go into
effect.

**2 Addressing less than 13% of the land use activities will probably not realize
the water quality improvements desired.**

The new riparian buffer rules only affect new development and we believe this targeting
will not achieve the goal of improving Chatham County stream quality. According to the
Chatham County web page 27% of the acreage in the county is agriculture, according to
North Carolina State University County Extension 60% of the acreage is in timber. That
leaves only 13% of the county as developed land and an even smaller amount will be new
development. It is probably an unreasonable expectation to see any improvement in
stream quality when targeting only 13% of the land use activities.

3 Addressing other sources of sediment run off for improvement in stream quality

The streams do not care about the source of the sediment entering them. As such, whether it is from new development, existing homes, commercial development, or roadside erosion it should be addressed. We drove along 10 miles of Chatham County roads between Pittsboro and Siler City and noted over 53 areas of significant erosion along the sides of the road. These were only the areas we could easily see. We are in the process of assessing the acreage involved but estimate it will be significant. Considering all the miles of roads in Chatham County the roadside erosion, due to lack of proper maintenance, is probably a significant contributor of sediment to Chatham County streams.

4 Nutrient run off prevention needs to be addressed

About 80% of the nutrients getting into streams are estimated to come from non-point sources. These include sources such as agriculture and private residences. Farmers generally do not over apply fertilizers because that is expensive. However, the average homeowner can not calculate how much fertilizer to apply to their lot (do they really subtract out the land occupied by their house and driveway) and they just apply until the lawn turns green. Also, fertilizer is commonly left laying on their driveways and streets to be immediately washed into the streams with the next rain.

One key for improving stream quality is reduce or eliminate the application of fertilizers by private citizens. This will increase the effectiveness of stream buffers as they will have to remove a small nutrient load.

It is ironic that if you want to be paid for applying fertilizer to a residential lawn then you must obtain an applicator's license. However, as the owner you can put down an unlimited amount of almost any chemical with no responsibility as to off site consequences.

5 Section (B) 4. Requirements for water and sewer lines crossing streams

The current requirements allow for water and sewer lines to cross a stream either attached to a bridge structure or by directional boring under the stream starting and ending outside the buffer zone. We recommend that lines also be allowed along the edge of the road crossing the stream for two main reasons:

- 1 Some stream crossings will not be bridges and so there will not be a structure from which to attach the piping.

Chatham Landholdings, L.L.C.

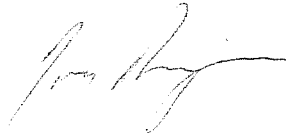
- 2 Directional boring results in a pressurized line being installed under a stream where if it begins to leak can go unobserved for years resulting in stream degradation and potentially contamination of groundwater. Should a pressurized line (force main) which is buried along the road edge leak it will most likely rise to the surface quickly (because it is only buried about 2 feet) and be readily observed and then fixed.

We appreciate the Board's consideration of these comments and would welcome the opportunity to discuss them with you further.

Thank you,



Dave Philbrook
Chatham Landholdings LLC



Tom Dunnigan
Chatham Landholdings LLC

Our 25th Year!



P.O. Box 187 Bynum NC 27228 (919) 542-5790 info@hawriver.org

August 20, 2007

To: Chatham County Board of Commissioners

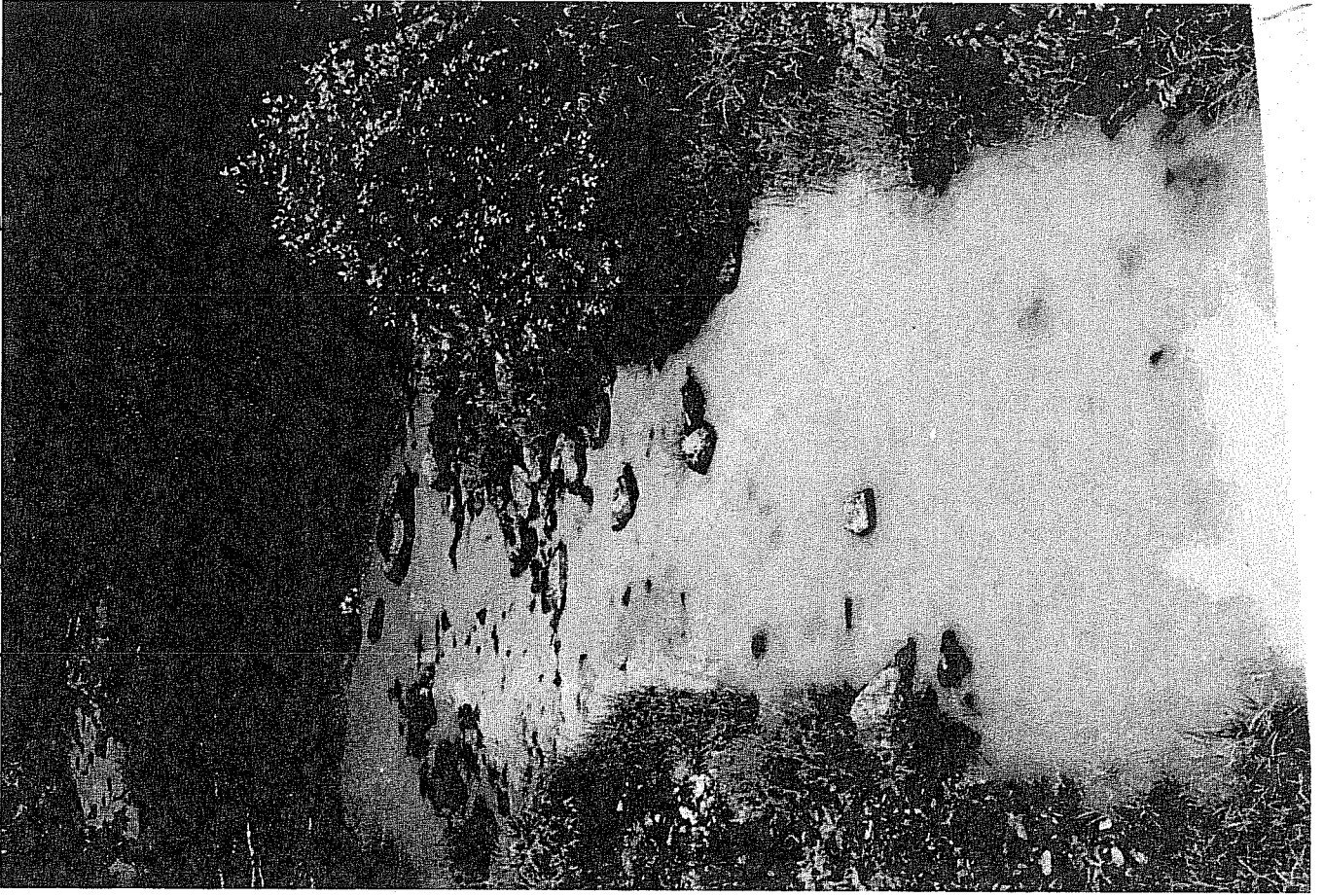
Comments on the Recommendations by the Environmental Review Board for Riparian Buffer Requirements

The Haw River Assembly is a nonprofit organization based in Chatham County whose mission is to protect all the waters of the Haw River basin. We know first hand just how important the riparian buffers are for water quality and the fragile ecosystem of plants and wildlife that depend on this habitat. We have seen too many incidents of insufficient buffers, and the resulting damage to streams, as development has exploded in Chatham County.

We applaud and support the recommendations as presented by the Environmental Review Board, and believe they are a scientifically based approach to protecting buffers, while taking into account the needs for economic development, recreational trails and public safety. It is important that the integrity of stream buffers is maintained. We believe that as new developments are built, Chatham County should make it very clear that the first priority in these fragile buffer areas is water quality and ecosystem health.

The recommendation for buffers of springs, seeps, wetlands, and ephemeral streams is of the utmost importance. Our current regulations do not protect these smaller headwater streams. It has become a common occurrence in Chatham to see ephemeral streams, even those with defined channels and aquatic life in them, be destroyed as roads, golf courses, houses, shopping centers, and sprayfields are built. The proposed recommendations will ensure that at least some of these smaller headwater streams, as well as springs, seeps and wetlands, will not only be saved from bulldozers, but given enough of a protected buffer to survive as the land around them changes from forest to suburb.

7/11/07 Morning after evening rain, Dry Creek.
Red mud entering from Laurel Ridge DVPmt.



Location: Old 87 bridge on Dry Creek,
Looking from station (East)

STATEMENT IN SUPPORT OF ERB RECOMMENDATIONS TO SECTION 304 OF
THE WATERSHED PROTECTION ORDINANCE

Submitted by
Delcencia S. Turner
POB 147
Gulf, NC 27256

I come here this evening as a citizen, but also as a member of the Chatham County Planning Board. In the latter role, I have witnessed first hand the damage to our county due to *not* having the protections the ERB is recommending for our watershed. Everyone in this room lives in our watershed and everything we do affects it. Unfortunately, much of what we do contributes to the non-point source pollution that erodes our soil and degrades our waters.

When it rains, oil, grease, and toxic chemicals we use to clean our homes and cars, as well as excess fertilizers, herbicides and insecticides we use when we mow our lawns or manage our farms, is carried by stormwater across the land, or is washed into a storm drain. Either way, it all ends up where? In *our* watershed, unless of course, there is a well managed wetland to filter pollutants out before they reach watershed area because that is what they do. And you thought wetlands were just ugly, yucky little mangled pieces of land didn't you? No way! Wetlands are an important element in the watershed ecosystem because they serve as a link between the land and water and are therefore very effective protectors of the watershed. But I digress.

Here in Chatham County the greatest contributor to non-point source pollution is sediment from improperly managed construction sites for subdivision developments. The watershed supplies our drinking water, provides recreation, like boating and fishing and generally, sustains life in our county. The ERB is only trying to maintain the quality of life you are used to with their recommendations which are undeniably valid.

I know they are because in my own research for the subdivision subcommittee of the Planning Board, I've looked at "best management practices" in places as far south as Mississippi and as far north as Maine. What I found in each location was that, forested riparian buffer systems to protect watersheds and mitigate the negative effects of subdivision development have been in place for more than 10 years. Some of the counties that surround us, such as Orange, Alamance and Cumberland have revised their zoning ordinances and subdivision regulations to incorporate riparian buffer systems as recently as 6 to 10 years also. ~~So~~ what do we do? Thank the ERB for taking the time to make recommendations that will save our county and implement them immediately? Or, ignore the ERB and become the environmental pariahs of North Carolina? I don't know about you, but I would rather not have Chatham referred to as a wasteland.

So what happened here in Chatham and if we would have it 10 years ago we might have saved Dry Creek Day Creek Dry Woods The Har

Only a Dept. of whom we are in a



August 20, 2007

Chatham County Board of Commissioners

Re: Section 304 Watershed Ordinance Amendments - Riparian Buffers

Commissioners:

Good evening. I am Loyse Hurley President of Chatham Citizens for Effective Communities (CCEC). I live at 16 Matchwood, in Pittsboro. CCEC appreciates the efforts of the Environmental Review Board in preparing these proposed amendments to our watershed ordinance. Drinking water is one of our most valuable assets and necessary for life itself. Over the past few years, we've seen a dramatic, degradation of Jordan Lake and the Haw River, two of our drinking water sources.

One of the biggest protections for Jordan Lake or any other source of drinking water is the basic protection of the waters that flow into the lake. This protection can come from a combination of things, but the most important protection is that of buffer protection. What exactly is a buffer? It's an undisturbed area around a body of water - a stream - a wetland, - a lake - a pond - that is preserved naturally. A focus here is the word "undisturbed". Anything within a buffer adversely impacts this protection. Buffers provide for the natural filtration of pollutants. An over simplification of a very complex science: the wider the undisturbed buffer the better the protection.

This naturally leads to a compromise between the desires of citizens and development interests and the need to maintain clean water. A compromise on the uses of these buffers. A compromise on the essentials. The Environmental Review Board has wrestled with these compromises and tried to develop a reasonable, practical approach to meet the protections of the vital and life sustaining need for clean water versus competing interests. To take this to an extreme - do we allow anyone and anything to use these buffers, without restrictions and everyone has to drink bottled water? Of course not. So what should be the limitations? Is someone walking in the buffer area a problem? Probably not. Would an entire army division running through the buffer impact a stream - probably yes. Fort Bragg watch out.

A 100 foot buffer will impact a developers bottom line. Perhaps a house or two could be added to the development, thus increasing profits. Is that house or two worth the compromise of our water? We think not. Do we protect wetlands? Do we protect headwaters? Of course we do. The balance between protection and enjoyment is a delicate one. We all want to be able to ride our bikes or horses along a stream. We all want to allow our children to feel the enjoyment of

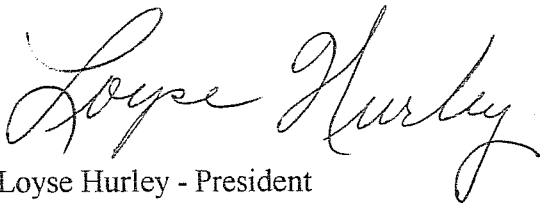
PO Box 412 Pittsboro, NC 27312

dabbling their feet in a brook - unless that brook looks murky, muddy and has dead fish and objectionable things floating on it.

How much protection is too much? Our ERB has tried to come up with a sensible, balanced solution. Their scientific knowledge and research has resulted in these proposed amendments. CCEC thinks they have done an excellent job.

We also recognize that not everyone is happy with these recommendations. As humans, we can only do the very best our scientific knowledge allows. Perhaps, in the future, different technology or information will come to light. But for now, these proposed amendments are the best considered scientific opinion and recommendations we have. The goal is something all should sensibly agree to.

Thank you for the opportunity of speaking.

A handwritten signature in cursive script that reads "Loyse Hurley". The signature is written in black ink and is positioned above the printed name.

Loyse Hurley - President

I live at 136 Rocky Falls

My name is Kathleen Hundley, and I am a land owner along the Rocky River and have been a Chatham County resident for nearly 25 years.

It is an undisputed fact that Chatham County has become, within the last ~~ten~~^{five} years or so, prime property for development. The last Board of Commissioners left us a legacy of well over 100 proposals to build. As the time, there were few long-reaching guidelines to protect the environment of the subdivisions. Whatever the developers wanted to do – or not do - with respect to the environs of their project^s, they did. Our present Board of Commissioners has organized an Environmental Review Board (ERB) to oversee future proposals and recommend limitation of excessive or harmful practices.

The three rivers in the county are in desperate need of such limits. As you know, the Rocky River is a short river that has, over the years, been increasingly insulted by polluting effluent from both Liberty and Siler City. Currently the invasion of the Rocky by development threatens further insult from sediment and runoff from construction of new homes and businesses and later from run-off of septic systems or spray irrigation, and from fertilizers (nitrogen and phosphorus) from lawns and greenways. The Rocky is too fragile to withstand these kinds of increases. Recommended development guidelines designed by the ERB to minimize and control such insults to the Rocky River and other environmental concerns within the county can make the difference between a clean, alive and viable waterway and a dead river devoid of aquatic life.

One recommendation by the ERB that will, when approved make, a large positive impact on saving Chatham waterways, particularly the Rocky river, is the ordinance for vegetative buffers along streams and rivers. Such buffers can filter sediment and other land-born pollutants, such as fertilizers and agricultural run-off, and absorb them before they make it to the water. With nitrogen and ^{levels} ~~phosphorus~~ in the Rocky higher than in either the Haw or the Deep, buffers are needed to protect the river and decrease fertilizer chemicals to acceptable limits.

Chatham County needs the Environmental Review Board to assist the BOC in controlling development within the county and the establishment of vegetative buffers to keep the waterways from being loaded with the refuse of that development. The Friends of the Rocky River urges the Board of Commissioners to approve both ^{environmental assessment} ~~the ERB~~ and the stream and river buffer ordinance.