

has been met; that base flood elevations for all lots along Dry Creek have been computed as well as the net usable land area above the flood; and that this work is shown on map sheet #4. Ms. Richardson stated that this condition would be deleted from staff recommendation.

No adjacent landowners spoke.

There was no discussion among the Board.

Mr. Mason made a motion; seconded by Mr. McCoy to grant approval of the request to change the name to "Chapel Ridge, Phase Three"; to add the project to the Chapel Ridge Planned Unit Development; to approve an interconnecting roadway between phases; and that the roads in Chapel Ridge, Phase Three be allowed to be private roadways constructed to the NC DOT hilly standards and approval of the final plat titled "Chapel Ridge – Phase Three". There was no discussion on the motion and the motion passed 7-0-3 with Mason, McCoy, McBee, Cross, Harris, Nettles and Wilson voting in favor of the motion; and Eliason, Kost and Walker abstaining.

Chairman Eliason returned to the Board.

VIII. ZONING AND ORDINANCE AMENDMENTS:

Items from July 17, 2006 Public Hearing:

- A. Request by Contentnea Creek Development Co. for a zoning district change from RA-5 to RA-90, on property consisting of 130 acres, located off SR-1714, Hatley Road, New Hope Township.

Mr. Megginson stated that at the applicant's request Item A. listed above is being postponed until the October Planning Board meeting; and that the applicant has presented for the September 18, 2006 public hearing requests for this same property to be considered as a conditional use district with a conditional use permit for a site plan.

- B. Request by Baycorp Development, Inc. on behalf of Ridgely W. Cook, Jr. and Julia Ann Cooper to rezone 1.35 acres, located off US 15-501 N, Baldwin Township from RA-40 Residential Agricultural to a Conditional Use B-1 Business District.

- C. Request by Baycorp Development, Inc. on behalf of Ridgely W. Cook, Jr. and Julia Ann Cooper for a Conditional Use B-1 Business Permit for banks, savings and loans, finance companies, credit agencies, and similar financial institutions on 1.35 acres, located off US 15-501 N, Baldwin Township.

Mr. Megginson stated that at the applicant's request Items B. and C. listed above are being postponed until the October Planning Board meeting to allow addition time for the applicant to address issues of concern and wastewater disposal.

- D. Request by Blake & Associates, Inc. on behalf of HBP Properties, LLC for

a B-1 Conditional Use District with a Conditional Use Permit for Retail / Office Buildings / Restaurants / Bank / Insurance / Financial Services / Specialty Retail / Furniture / Pet Shop / Art House Theatre / Gallery / Pharmacy / Drug Store / Engineering / Service Offices / Distribution Centers (see application for specific uses), on 40 acres, located at the intersection of U. S. Hwy 15-501 N. and SR-1530, Polks Landing Road, Baldwin Township. (Conditional Use District and Conditional Use Permit)

Conditional Use District Request:

Mr. Megginson reviewed the agenda notes for this request. He stated that the area was originally designated as a compact community area in the overall Land Development Plan that extended along much of US 15-501; that this area was also within the area adopted by the Board of Commissioners as an area for the compact community area; that commercial uses are referenced within this area; that Williams Corner and Chatham Downs (Harris Teeter) are located within this area, i.e. intersection of Lystra Church Road and US 15-501); that tonight's agenda notes address various aspects of the Land Development Plan; that it is staff opinion that the proposal change from RA-40 to Conditional Use B-1 Business District is supported by the majority of the Land Use Plan; and that staff recommends approval of the rezoning request.

No adjacent landowners spoke.

Travis Blake, applicant, was present. Mr. Blake stated that this project has the same initiatives of the Williams Corner development relative to environmental, i.e. consideration with impervious and storm water runoff; that a number of traffic problems have been solved with this project specifically the Polks Landing egress; that a stoplight at entry would be provided for Polks Landing residents (further north); and that Polks Landing drive would be closed to full access. Mr. Blake noted that Richard Adams (traffic engineer) with Kimley-Horne and Associates, Inc., and Bernice O'Hanlon (concerning the site plan) with John R. McAdams Company, Inc., were present.

Board discussion followed regarding the proposed road.

Ms. Birchett stated that the proposed land is surrounded by RA-40 zoning on one corner and by conditional use rezoning on the other two corners.

Mr. McCoy made a motion; seconded by Mr. Mason to grant approval of the rezoning request as submitted and as recommended by staff. There was no discussion on the motion and the motion passed 8-0-2 with McCoy, Mason, Eliason, McBee, Cross, Nettles, Walker and Wilson; and Harris and Kost abstaining.

Conditional Use Permit Request:

Mr. Megginson reviewed the agenda notes for this request. He stated that this request is for a specific conditional use permit; that the above abstract title lists the requested uses; that the Board has to make the five required findings listed in the Chatham County Zoning Ordinance (and referenced in tonight's agenda notes); that need and desirability and the waste water system are concerns of

staff; that these concerns are addressed in staff's notes; that the main concern not supported is the need; that staff has not yet received comments from the Environmental Health Department regarding wastewater treatment analysis conducted by S & EC; that staff has recommended thirteen (13) conditions (as noted in tonight's agenda notes) if the Board considers as a favorable request to be granted; and that this is the part of the application that has already had sworn testimony.

Board discussion followed. Ms. Kost stated that the most critical piece of information is missing, i.e. dealing with the soils and septic issue; and that she suggests that this request be tabled until next month's Planning Board meeting awaiting results of the Health Department's evaluation. Mr. Megginson stated that these two requests (district and permit) go together; that the Board has three meetings to make a recommendation to the Commissioners; and that if the Board postpones this permit request we would not send the district change on to the Commissioners until the Board has completed the permit request review. Regarding finding #2 (i.e. essential or desirable), Mr. Walker stated that with other commercials approved (Chatham Downs, Williams Corner and others) he did not think that the Board was in a position to turn down another in an approved area, although he was not sure that any of the past approvals have actually been desirable. Mr. McCoy stated that the request addresses some of the needs in the area. Mr. Harris was unsure that the request is essential for the public convenience or welfare. Mr. Wilson noted that this request has not had the opposition that other similar requests have had (i.e. Chatham Downs). Mr. Mason supported the need for the proposal.

Mr. McCoy asked if the applicant was acceptable of the thirteen conditions recommended by staff. Mr. Blake stated that he did not have a problem meeting these conditions except for condition #13 that requires that the first building permit to be issued within 12 months from the date that this conditional use permit is approved. Mr. Blake asked that this be changed to read within 2 years. Ms. Birchett stated that this should not be a problem.

Mr. McCoy made a motion; seconded by Mr. Mason to grant approval of the request as submitted with the thirteen conditions recommended by staff with the change to condition #13 to read "within 2 years" as noted above and stated below. The thirteen (13) conditions are as follows:

1. A lighting plan shall be supplied to and approved by the Planning Department prior to approval of the first building permit being issued. All lighting shall meet the requirements of the draft Chatham County Lighting Ordinance.
2. Signage shall be as specified on the site plan. Signage shall meet the requirements of the zoning ordinance for a Business (B-1) zoning district where no one sign shall exceed 150 square feet in size.
3. The recommendations from the Appearance Commission for landscaping shall be followed and a new landscape plan submitted and approved by the Planning Department prior to installation of the first plantings. Plantings shall start at the next optimal planting season from the date of permit approval.

4. A new site plan depicting the right-in/right-out only at the south drive shall be provided prior to issuance of the first building permit.
5. The proposed new road connecting US 15-501 with Polks Landing Road shall be a public road built to NCDOT standards and dedicated to the NCDOT.
6. Setbacks from Cub Creek shall be 100 feet on each side for buffers and the Storm water management pond. A new Storm water management plan shall be issued to the Planning Department prior to issuance of the first building permit. The storm water design shall be at a minimum to the requirements specified in Section 8.5.4 Storm Water Runoff of the application.
7. Parking requirements for the request shall be as outlined in the Zoning Ordinance, Section 12 and the Chatham County Design Guidelines.
8. An approved wastewater disposal site plan and permit from NCDWQ and any other departments as deemed necessary with respect to the wastewater disposal shall be supplied prior to issuance of the first building permit.
9. All required perimeter landscaping and buffering shall be installed prior to the issuance of certificate of occupancy for the first structure or at the first optimal planting season following the issuance of the certificate of occupancy.
10. Dumpsters shall be screened to meet Chatham County guidelines.
11. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Erosion Control etc.) shall be obtained and copies submitted to the Planning Department prior to issuance of the first building permit.
12. Off-site improvements required by NCDOT or any other agency shall be constructed at no cost to Chatham County.
13. The first building permit shall be issued within 24 months from the date of this permit's approval or this permit will automatically expire

Discussion on the motion followed. Ms. Kost was concerned that the outcome of the report from Environmental Health might not be good results. Mr. Megginson noted that the State would not allow what the soils don't permit. There was no further discussion on the motion and the motion failed with a tie vote of 5-5 with McCoy, Mason, Cross, Nettles and Walker voting in favor of the motion; and Eliason, McBee, Harris, Kost and Wilson voting against.

Ms. Kost made a motion; seconded by Mr. Harris to table the request until next month's Planning Board meeting. There was no discussion on the motion and the motion passed 7-2-1 with Kost, Harris, Eliason, McBee, Cross, Nettles and Wilson voting in favor of the motion; and McCoy and Walker voting against; and Mason abstaining.

Public Hearing Items: Mr. Megginson stated that items A – I listed below are scheduled for public hearing September 18, 2006; that most of the requests are conditional use requests; and that it is advised that Board members refrain from discussing the issues outside the public hearing.

- A. Public Hearing request by McLean Family LTD, Partnership to rezone

- * D. Request by Blake & Associates, Inc. on behalf of HBP Properties, LLC for a B-1 Conditional Use Permit for Retail / Office Buildings / Restaurants / Bank / Insurance / Financial Services / Specialty Retail / Furniture / Pet Shop / Art House Theatre / Gallery / Pharmacy / Drug Store / Engineering / Service Offices / Distribution Centers (see application for specific uses), on 40 acres, located at the intersection of U. S. Hwy 15-501 N. and SR-1530, Polks Landing Road, Baldwin Township. (Note: The Planning Board approved the Conditional Use District request during the September 5, 2006 Planning Board meeting.)

Ms. Birchett reviewed the agenda notes for this request. She stated that during last month's Planning Board meeting the Board recommended approval of the conditional use district request by Blake & Associates, Inc. for Polks Centre and tabled the conditional use permit issue; that the permit request was tabled based on the need for additional information for findings of fact #2 (either essential or desirable for the public convenience or welfare) and #5 (adequate utilities, necessary facilities, i.e. wastewater and soil suitability for the site); that based on information received from the applicant it is the recommendation from staff that finding #2 has not been satisfied; that staff is satisfied that finding #5 has been supported; and that it is the Planning Department opinion that the request should be denied.

Board discussion followed. Mr. Walker asked staff to verify the problem with finding #2 relative to other similar uses that have been requested. Ms. Birchett stated that the total square footage of commercial projects currently operational, under development, or to be developed is approximately 2.3 million (not counting this project); that some of these same proposed uses were also listed in the Williams Corner application; that there are some differences in the proposed uses but overall the open retail flex space is approximately the same. Mr. McCoy stated that the applicant has spent a good deal of time and effort to get to this point in the process and that Mr. Blake should be allowed an opportunity to voice his comments especially regarding finding #2. Ms. Kost stated that it doesn't seem fair, (with talking about commercial development in 2011 – 2012), that it is holding applicants like Mr. Blake hostage because it is so far down the road, but yet we consider this when evaluating finding #2. Mr. Megginson stated that probably every project considered, unless the request is fairly unique (i.e. offers something that many people need and is not available in Chatham County), it will always be subjective to how finding #2 is interpreted.

Travis Blake, applicant, stated that individual market studies were made; that he is also developing Williams Corner; that he would be monitoring the competition between Williams Corner and Polks Centre; that there would be no duplication of services unless the two services think that they are compatible; that 50,000 sq. ft. of the proposed 125,000 sq. ft. is flex space; that approximately 30,000 sq. ft. is an office supply; that the remaining 45,000 sq. ft. would house a bank and three or four restaurants; that various businesses have already submitted letters of interest; that the need and desirability could be best judged by the willingness of these various businesses to come into the development; and that he has lived in Chatham County his entire life and is attempting to bring needed services into the County. Mr. Blake assured the Board that Polks Centre would be much

nicer than the Chatham Downs development, i.e. vegetation, plantings, and site. He noted that he is in agreement with the thirteen (13) conditions recommended by staff

Mr. McCoy made a motion; seconded by Mr. Walker to grant approval of the request as submitted with the following conditions:

1. A lighting plan shall be supplied to and approved by the Planning Department prior to approval of the first building permit being issued. All lighting shall meet the requirements of the draft Chatham County Lighting Ordinance.
2. Signage shall be as specified on the site plan. Signage shall meet the requirements of the zoning ordinance for a Business (B-1) zoning district where no one sign shall exceed 150 square feet in size.
3. The recommendations from the Appearance Commission for landscaping shall be followed and a new landscape plan submitted and approved by the Planning Department prior to installation of the first plantings. Plantings shall start at the next optimal planting season from the date of permit approval.
4. A new site plan depicting the right-in/right-out only at the south drive shall be provided prior to issuance of the first building permit.
5. The proposed new road connecting US 15-501 with Polks Landing Road shall be a public road built to NCDOT standards and dedicated to the NCDOT.
6. Setbacks from Cub Creek shall be 100 feet on each side for buffers and the storm water management pond. A new storm water management plan shall be submitted to the Planning Department prior to issuance of the first building permit. The storm water design shall be at a minimum to the requirements specified in Section 8.5.4 Storm Water Runoff of the application.
7. Parking requirements for the request shall be as outlined in the Zoning Ordinance, Section 12 and the Chatham County Design Guidelines.
8. An approved wastewater disposal site plan and permit from NCDWQ and any other departments as deemed necessary with respect to the wastewater disposal shall be supplied prior to issuance of the first building permit.
9. All required perimeter landscaping and buffering shall be installed prior to the issuance of certificate of occupancy for the first structure or at the first optimal planting season following the issuance of the certificate of occupancy.
10. Dumpsters shall be screened to meet Chatham County guidelines.
11. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Erosion Control etc.) shall be obtained and

copies submitted to the Planning Department prior to issuance of the first building permit.

12. Off-site improvements required by NCDOT or any other agency shall be constructed at no cost to Chatham County.
13. The first building permit shall be issued within 24 months from the date of this permit's approval or the expiration of the appeal period or any court decision, whichever is later or this permit will automatically expire and become void.

There was no discussion on the motion and the motion passed 5-4 with McCoy, Walker, Cross, Kost and Nettles voting in favor of the motion; and McBee, Wilson, Eliason and Harris voting against.

Items from September 18, 2006 Public Hearing:

- E. Public Hearing request by McLean Family LTD, Partnership to rezone approximately 470 acres located off Big Hole Rd. (Private), Williams Township from RA-5 to RA-90.

Ms. Birchett reviewed the agenda notes for this request. She stated that after the agenda notes were prepared staff was informed by Kristen Sinclair with the North Carolina Natural Heritage Program that a portion of this property (the majority of the McLean tract) still remains within the Big Woods Wilderness Significant Natural Heritage Area.

Mr. Megginson gave a brief synopsis regarding the Big Woods Wilderness Significant Natural Heritage Area. He stated that things were put into different classifications when the inventory was done; that various geographic areas were placed in different categories; that this particular one (at the time it was done) was the largest, roadless, undeveloped tracts of land in the Triangle for wildlife habitat; that following this designation, Ed Gallup (owner of Tar Heel Wood Treating Company) timbered his land and created Big Woods Subdivision; that this changed the designation; that The Preserve and The Legacy were later developed within the Big Woods Wilderness; and that because of these changes in the larger undeveloped parcels the State acknowledges that the area is no longer wilderness, i.e. houses very low / high density and have changed the area.

Ms. Kost asked, 1.) Why the North Carolina Natural Heritage Program hasn't taken this area off if things have significantly changed, 2.) Does the fact that this area still remains within the Big Woods Wilderness not change staff's recommendation, and 3.) Are we being consistent with this request relative to the Cooper request (rezone from RA-5 to RA-90 with a site plan in place) and this being only a rezoning request without a subdivision plan? Mr. Megginson explained that the state still considers this land significant as far as a wilderness area. Ms. Birchett cited that tonight's agenda notes state that further study of this site (relative to the Natural Heritage Program) is recommended should the property be subdivided, i.e. possible occurrence of the Carolina Ladle Crayfish; and that the Office of State Archaeology has noted that there were two (2) recorded sites located in the southeast corner of this parcel by Environmental