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Vote on a request by The Retreat on Haw River, LLC for subdivision First Plat review and approval of **The Retreat on Haw River Conservation Subdivision**, consisting of 393 lots on +/- 650 acres, located off SR-1711, Bynum Ridge Road, Baldwin Township.

..ABSTRACT

Action Requested:

Vote on a request by The Retreat on Haw River, LLC for subdivision First Plat review and approval of **The Retreat on Haw River Conservation Subdivision**, consisting of 393 lots on +/- 650 acres, located off SR-1711, Bynum Ridge Road, Baldwin Township.

Introduction & Background:

Previous Approvals: The property, 650 acres, is currently zoned CU-RA-90 Residential-Agricultural CD District and was approved by the Board of County Commissioners on March 21, 2005. A sketch plan consisting of 185 lots was also approved by the BOC on March 21, 2005. On September 17, 2007 the BOC approved a final plat for 67 lots.

Water Source: public, Chatham County

Sewer Source: Private WWTP

Watershed District: WSIV-PA/ Jordan Lake Buffer Area and River Corridor

Within 100 year Flood: some floodable area exists on property, zone A/E and X

The proposed project is located off Bynum Ridge Road, SR-1711 and is adjacent to the Haw River. See attachment #5 for an aerial map. The subdivision process consists of four (4) main steps: Concept Plan, First Plat, Construction, and Final Plat review. The applicant has completed the Concept Plan review along with their community meeting. The community meeting was held on April 7, 2014 at the law office of Bradshaw and Robinson located in the Hall-London House, 128 Hillsboro St., Pittsboro, NC 27312. Eighteen (18) people attended the meeting. See attachment # 6 for a list of the topics discussed.

Discussion & Analysis:

This request is for First Plat review and approval of a Conservation Subdivision consisting of 393 lots on +/- 650 acres with a community amenity center including a trail system. *A simultaneous request for a zoning district change from CU-RA-90 Residential-Agricultural CD District back to the original zoning districts of R-1(minimum lot size 40,000 square feet) and R-5(minimum lot size 3 acres with a 5 acre average) is in process and will be reviewed by the Planning Board at the 7/1/14 meeting.* The developer has provided a Project Summary, attachment 2, with details of the project.

Review: The subdivision request is reviewed under the current Subdivision Regulations, the Watershed Protection Ordinance, the Soil Erosion & Sedimentation Control Ordinance, the Stormwater Management Ordinance. All ordinances and regulations regarding subdivision and development of land are required to be met. Staff completed the sufficiency review of the project on May 30, 2014. See attachment # 3 for the response to staff comments.

Section 7.7 of the Subdivision Regulations, **Conservation Subdivision – Alternative Standards for Development** states in part “As an alternative to conventional layouts, Chatham County encourages the preservation of large, contiguous blocks of land.....When a project voluntarily preserves Conservation Space in accordance with this Section, a project can increase the number of units that would be allowed on the overall property by ten (10) percent. Calculations of the density bonus shall be based on the applicable underlying land use regulations(s) dictating allowable development density.” A Conservation Subdivision requires that a minimum of 40% of the project area be retained as Conservation Space. A minimum of 80% of such Conservation Space shall be Natural Space and a maximum of 20% of the Conservation Space may be Open Space. Per the Project Summary, the developer anticipates that 66% of the project area (includes voluntary green space), +/- 430 acres, will be in Conservation Space versus the required 40%.

Public Hearing: A public hearing on the request is required per the Subdivision Regulations, Section 5.2 C (4)(a) “During a First Plat review, the first Planning Board meeting shall include a Public Hearing to receive comment on the proposed subdivision.” Item (b) states “Following the Public Hearing, the Planning Board shall review the proposal, staff recommendation and public comments and indicate their recommendation for approval, disapproval or approval subject to modifications. If the Board recommends disapproval or approval subject to modifications, the necessary reasons or modifications will be specified in the minutes of the meeting.” The Board has two (2) meetings to act on the proposal.

Density Calculations: A density calculation sheet has been provided by the developer, attachment 4. The land that is required to be protected within a Conservation Subdivision under other regulatory provisions, i.e. riparian buffers and floodplain, is 34.8 acres in the R-5/River Corridor and 91.54 acres in the R-1/WSIV-PA area. See the density calculation sheet for a breakdown of net land available in each district and calculations of density. The *maximum density allowed* (based on allowable units in R-1 and R-5 zoning districts) is calculated to be 422 lots, however, the developer is proposing 393 lots. The impervious surface calculation for the project is 15.0%.

Natural Space: 80% of the Conservation Space is required to be Natural Space. Approximately 258 acres will be Natural Space. The Conservation Space Guidelines states “Natural space is unimproved land in its naturally occurring state, or preserved to

regenerate to its naturally occurring state, unaltered by human activity, and preserved to maintain or improve the natural, scenic, ecological, cultural, hydrological, or geological values of an area.” Attachment # 11, Conservation Area & Buffer Widths map shows the designated Natural Space, Open Space, and Buffer/Green Space.

Open Space: A maximum of 20% of the Conservation Space may be Open Space which is approximately 51 acres. The developer is designating only 6.45 acres of the Conservation Space as Open Space. The ‘Conservation Guidelines’ state “Open space, as defined in the Subdivision Ordinance, allows amenities such as recreational uses and some non-intrusive common uses (e.g. when land application is not the preferred means of wastewater disposal, community septic systems are allowed in Open Space areas). Open space should be located as close to proposed development as practicable, taking into account considerations such as public safety and soil suitability.” See Section 7.7 (D), Items 1 – 7 for allowed uses in Open Space related to Conservation Subdivisions.

Per the developer, additional area designated as ‘Green Space’ is also being voluntarily provided by the developer. This is area that is considered Open Space that is not subject to the conservation guidelines. It is area being voluntarily left open by the developer beyond the minimum Open Space requirements and consists of +/- 169 acres. The applicant anticipates both active and passive recreation to occur in the Green Space. See attachment #3, item 1.

Ownership / Management of Conservation Space: Section 7.7 (G) requires that a management plan for the Conservation Space be submitted to and approved by the County Attorney. Ownership of the Conservation Space and Green Space has not yet been determined. Possible beneficiaries of the Conservation Space include Chatham County (possibly for use as a mostly passive park area), conservation organization, the Homeowners’ Association or a combination of these entities. Per Section (G) “Upon initial approval of the management plan by the County, changes to the plan shall be allowed only when approved by the County Board of Commissioners.” Section (H) requires that the Conservation Space shall be protected in perpetuity by a binding legal document that is recorded with the deed upon review and approval by the County. Prior to final plat recordation, the county attorney shall review and approve the form of the Management Plan, the Declaration of Covenants and Restrictions, and the deed for the Conservation Space. A copy of the draft management plan is included with the packet, attachment #17.

Environmental Impact Assessment: Due to the number of lots, an Environmental Impact Assessment was required to be submitted and peer reviewed. The EIA, dated April 2014, was prepared by David Gainey, Soil & Environmental Consultants, P. A. and peer reviewed by Froehling & Robertson, Inc. See attachment #16. The response to

the peer review comments, prepared by CE Group is also included. Per the EIA, Section 3.12.2, the Buttercup Phacelia, a federal species of concern and state listing as rare, was found to exist within the project boundaries of the site. The confirmed population acreage is approximately 117 acres within the project boundaries. The existing approved plan for The Retreat proposed an impact of 66 acres of the confirmed population. The newly revised site plan will only impact 39 acres of the confirmed Phacelia population, conserving an additional 27 acres above and beyond the existing approved plan. Another 30 acres of habitat containing sporadic Phacelia populations within Pokeberry Creek Floodplain will also be protected and will encourage further spreading of the species within the project boundaries (in total 78 acres preserved).

Water Features: The water features are shown on the First Plat Site Plan and in more detail on the map showing the Conservation Area and Buffer Widths, attachment #11. The on-site riparian buffer review was conducted by Soil and Environmental Consultants, P. A and peer reviewed and approved by Natalie Landry, Chatham County Environmental Quality Inspector. The buffer widths range from 30 feet per side to 100 feet per side.

Trail System: A trail system, as part of the amenity, is shown on the site plan. All trails are located outside of riparian buffers.

Access: Lots are to be accessed by public, state maintained roadways and private alleys. Tom Bender, Chatham County Fire Marshal reviewed the plans and recommends 'No Parking' signs be posted on one side of streets to allow better emergency vehicle access. Private roads/alleyways will be required to meet the Fire Code requirements for access. Mr. Bender advised that T-turnarounds need to be provided at the end of any dead end roads and that roads should be accessible to emergency vehicles during construction.

Road Names: The Chatham County Emergency Operations Office has approved the following roads names for submittal to the Board of County Commissioners for approval:

River Retreat Ln, West Chapel Creek Dr., East Chapel Creek Dr., Swift Creek Place, Indian Pointe Lane Herons Ridge Ln., Live Oak Way, South Haw Bluffs Dr., River Refuge Place, Saddle Creek Dr, Kingfisher Ln., Camp Ridge Trail, Sanctuary Ridge Dr., Island River Place, West Pasture Lane, Canoe Trail, Headwaters Trail, Drakes Meadow Ln, Frontier Woods Trail, Birch Bank Way, North Haw Bluffs Dr., and Lambeth Park Ln.

Water / Sewer: Public water will be public provided by Chatham County. Sewer service will be provided by construction of a private WWTP which is proposed to only serve this residential project. Attachment # 8 is the Proposed Tertiary Treatment Facility with Storage and Reuse Spray Application – Soil / site evaluation report, dated May 15, 2014.

Lots: the 393 lots are all proposed for single family residential use. There is no minimum size for lots in a Conservation Subdivision; however the lot size is required to be adequate to provide for minimum setbacks and any required infrastructure or services. As shown on the site plan, the lots are clustered on the eastern side of Pokeberry Creek. Attachment # 7 shows a typical lot layout. There are two (2) non-residential lots proposed, one for the WWTP, and one for a pump station.

Phasing: The developer has provided a development schedule which states “It is anticipated that the development will be done in two phases (with sub-phases). The last final plat will be applied for by December 31, 2028.

Historical Structures: Areas of archaeological or historical value are addressed in the EIA. Per the EIA “Two structures are documented by SHPO within the proposed Retreat at Haw River site. These structures are the Bynum-Lambeth House and the Snipe House. Both structures are designated by SHPO as Surveyed Only and currently are not on the Study List, National Register, or Determined Eligible list.” The Snipe House has been deconstructed and the Bynum-Lambeth house is still standing, but, will be removed during construction. Per the developer, they are not aware of other structures 50 years or older on the property. Two cemeteries have been reported to be located on the property. One cemetery (Bynum E80.1) was located south of the pond and is shown on the site plan. The other cemetery (Bynum-Slave E80.2) has not been located and may have been disturbed beyond recognition. *Discovery of historically-significant structures or cemeteries after First Plat approval that may alter the overall design or layout of the subdivision will require the Construction Plan to be reviewed and approved by the Board of Commissioners.*

The developer has met with Bev Wiggins, Chatham County Historical Association and provided access to Ms. Wiggins and others to the Bynum-Lambeth house to document it's historical value and preservation potential. Ms. Wiggins has stated in an e-mail dated June 15, 2014, attachment # 9, that in the opinion of the Historical Association, the archaeological survey done in 2005 for the original development project was not adequate and that she has requested that the developer have another survey completed to better determine if there may be areas of Native American artifacts that have yet to be discovered and that the property, because it contains Pokeberry Creek and borders the Haw River is an area likely to be rich in archaeological resources. Pictures of the Bynum-Lambeth house are attached to the e-mail. The Historical Association is an advisory board. The developer currently, has not responded to Mrs. Wiggins request regarding additional archaeological review of the site.

The Technical Review Committee consisting of county staff reviewed the project on May 14, 2014. The developer, Scott Munday, Crescent Resources, was present along with

Mark Ashness, P. E., CE Group, Nick Robinson, Attorney, David Gainey, Soil Scientist were present to answer questions from staff. There were no major concerns from staff.

The Planning Board met on July 1, 2014 to review the request. The developer, Scott Munday, Crescent Resources, was present along with Mark Ashness, P. E., CE Group, Nick Robinson, Attorney, and David Gainey, Soil Scientist. A public hearing was held on the request. No one signed up to speak at the public hearing. The Board had general discussion after the staff presentation. Nick Robinson, Attorney, spoke and stated that 66% of the project site is being conserved, and that lots along the Haw River have been pulled further back than the previously approved plan. Mark Ashness, P.E., spoke and stated that no more than 50% of the meadow area will be used for spray irrigation and that the WWTP will serve any rest rooms that may be built to serve the park area.

Recommendation:

The Planning Board, by unanimous vote, and Planning Department recommend granting approval of the road names River Retreat Ln, West Chapel Creek Dr., East Chapel Creek Dr., Swift Creek Place, Indian Pointe Lane Herons Ridge Ln., Live Oak Way, South Haw Bluffs Dr., River Refuge Place, Saddle Creek Dr, Kingfisher Ln., Camp Ridge Trail, Sanctuary Ridge Dr., Island River Place, West Pasture Lane, Canoe Trail, Headwaters Trail, Drakes Meadow Ln, Frontier Woods Trail, Birch Bank Way, North Haw Bluffs Dr., and Lambeth Park Ln. and approval of the request for First Plat approval of **The Retreat on Haw River Conservation Subdivision** with the following conditions:

1. The subdivision request approval be contingent upon approval of the zoning request as follows: A request by The Retreat on Haw River, LLC to rezone Parcels 3027, 87217, 86946, 81274, and 86878 – 86944, from CU-RA90 to a split zoning district consisting of R-1 Residential for lands outside the River Corridor area and R-5 Residential to lands within the River Corridor, being approximately 650 acres collectively, located off Bynum Ridge Rd.
2. Prior to final plat recordation, the county attorney shall review and approve the form of the Management Plan, the Declaration of Covenants and Restrictions, and the deed for the Conservation Space.