



# Chatham County, NC

## Legislation Details (With Text)

**File #:** 19-3267      **Version:** 1

**Type:** Agenda Item      **Status:** Board Priorities

**File created:** 10/7/2019      **In control:** Planning

**On agenda:** 10/21/2019      **Final action:**

**Title:** Vote on a request to approve by Mark Ashness, P. E. on behalf of Marthas Investment, LLC for subdivision First Plat review and approval of Folkner Branch Subdivision, consisting of 40 lots on 186 acres, located off Marthas Chapel Road, SR-1752, parcels #17850 and #70380.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. More information from the Planning department website

| Date       | Ver. | Action By              | Action   | Result |
|------------|------|------------------------|----------|--------|
| 10/21/2019 | 1    | Board of Commissioners | approved | Pass   |

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**Action Requested:**

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**Introduction & Background:**

**Zoning:** R-1

**Water System:** Private Water

**Sewer System:** Private on-site

**Subject to 100 year flood:** No floodable area

**General Information:** The subdivision process is a four (4) step process: Concept Plan, First Plat, Construction Plan, and Final Plat. The applicant has completed the community meeting and the Concept Plan review. The minimum lot size requirement for the project is 40,000 square feet of useable area. The Planning Board has two (2) meetings in which to act on the proposal.

**Discussion & Analysis:**

The request is for First Plat review and recommendation of Folkner Branch Subdivision, consisting of 40 lots on 186 acres, located off Martha’s Chapel Road, S. R. 1752. A vicinity map showing the property location, attachment # 2, is included in the agenda packet. Per the Subdivision Regulations, Section 5.2C(4), a Public Hearing shall be held at the first Planning Board meeting to receive comments on the proposed subdivision. Item (b) states that 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. As stated above, the Planning Board has two (2) meeting to act on the proposal.

**Roadways:** The road is to be built as a 50 foot wide public right-of-way, with a 20 foot wide travelway, and is to be a state maintained road. William Judson, Chatham County Fire Marshal, stated he had no issues and/or concerns.

**Historical:** The applicant contacted Bev Wiggins, Chatham County Historical Association. Ms. Wiggins corresponded by email and stated she didn't need additional information unless evidence of human habitation was found. Should old roads be located, she would like to be notified. See attachment #3.

**Schools:** Notification of the proposed development was provided to the Chatham County School System. See attachment # 4.

**General Environmental Documentation:** The developer submitted the General Environmental Documentation and a letter dated April 29, 2019 from North Carolina Department of Natural and Cultural Resources Natural Heritage Program to Chatham County Land & Water Resources Division for review. See attachments 5 & 6. The letter states "A query of the NCNHP database indicates that there are records for rare species, important natural communities, natural areas, and/or conservation/managed areas within the proposed project boundary. The 'Potential Occurrences' table summarizes rare species and natural communities that have been documented within a one-mile radius of the property boundary. The proximity of these records suggests that these natural heritage elements may potentially be present in the project area if suitable habitat exists."

Rachael Thorn, Watershed Protection Director, reviewed and approved the information submitted.

**Community Meeting:** A community meeting was held on May 2, 2019 at Hyatt Place Hotel, 7840 NC Hwy, Durham. Approximately twenty people attended the meeting. Items/issues discussed included proposed wells impacting groundwater, street lights, perimeter buffers, construction traffic entrance, potential project timeline, average house size, stormwater runoff into adjacent properties, driveways next to adjacent properties, and additional traffic to Martha's Chapel Road. The applicant addressed most of the concerns at the community meeting and revised the proposed plat to add a voluntary 30' perimeter buffer around the entire project. The developer proposes to pave 100' of Vincent and Angela Cacace driveway and add landscaping as a buffer. The additional buffer, driveway paving, and landscaping are voluntary and cannot be required by the county.

**Technical Review Committee:** The TRC met July 17, 2019 to review the First Plat submittal. The applicant and developer weren't present. Items discussed included location for septic area on Lot 6, driveway widths, shared driveways, turning radius of Lots 2-4 for fire truck access, and if there will be a pond that firefighters could access. The County Fire Marshal, William Judson, had concerns with the driveway widths and turning radius on Lots 2-4 and asked if the shared driveways need to be separated. Chief Strowd, North Chatham Fire Department, asked if the subdivision would have a pond for the firefighters to use.

**Septic:** A soils report and map, attachment #9, was submitted. The lots are proposed to be pretreatment surface drip and/or pretreatment spray irrigation septic systems. The systems proposed are systems that have to be approved by the NC Department of Environmental Quality and Chatham County Environmental Health Department isn't required to review.

**Water:** County water is not available and each lot will have a private well.

**Road Name:** The road name Folkner Branch Lane and Pinewind Court have been approved by Chatham County Emergency Operations Office as acceptable for submittal to the Board of Commissioners for approval. A mail kiosk is proposed to be located on an open space lot between Lots 1 and 5.

**Water Features:** Steven Ball of Soil and Environmental Consultants, PA, submitted the Riparian Buffer Review Application along with a riparian buffer map, dated July 18, 2018, to Drew Blake, Chatham County Watershed Protection Inspector for review. Mr. Blake and Mr. Ball completed an on-site riparian buffer review on January 10, 2019 to verify the consultant's findings. Mr. Blake issued a confirmation letter of his findings dated January 23, 2019.

Mr. Ball and Mr. Blake met onsite with Andy Williams, US Army Corps of Engineers, on January 10, 2019. An email dated May 26, 2019 from Jean Gibby, Chief Raleigh Field Office US Army Corps of Engineers, states she concurs that the wetland delineation map provided to her represents the limits of the of US Army Corps of Engineers regulatory authority pursuant to Section 404 of the Clean Water Act. Ms. Gibby provided an email instead of a jurisdictional determination and staff deemed that was acceptable for the First Plat submittal. Any additional Corps permits must be obtained prior to submittal of the Construction Plan application. S&EC personnel identified sixteen ephemeral stream segments, six intermittent streams, two perennial streams, and twenty-two wetlands. Some modification were made based on the on-site meeting and were agreed to by all parties. The riparian buffer report states twelve ephemeral stream segments, nine intermittent stream segments, two perennial stream segments, and twenty-two wetlands.

**Stormwater and Erosion Control:** Four stormwater devices are proposed and will be placed within open space in the subdivision. As part of the stormwater permitting process, additional information will be provided to the Watershed Protection Department. A Stormwater Permit and Sedimentation & Erosion Control Permit will be obtained from the Chatham County Watershed Protection Department prior to Construction Plan submittal. No land disturbing activity can commence on the property prior to obtaining Construction Plan approval.

**Site Visit:** Site visits were scheduled for July 18 and 24, 2019 for Planning Department staff and various Board members to attend. Mark Ashness, P.E. was present to walk the property with staff and Board members and discuss the project. Areas of the property viewed were the wetlands and intermittent stream, and center line of the proposed road alignment. Pictures of the site visit can be viewed on the Planning Department webpage at [www.chathamnc.org/planning](http://www.chathamnc.org/planning) <<http://www.chathamnc.org/planning>>, Rezoning and Subdivision Cases, 2019.

**Planning Board:**

The Planning Board met August 6, 2019 to review the request. Mark Ashness, P.E. was present to

answer questions. Also, present were several adjacent property owners. The staff report was provided followed by the Public Hearing required in the Subdivision Regulations, Section 5.2C(4).

Ms. Carla Reed spoke and stated that she lives directly across from the proposed project entrance. Ms. Reed's concerns were increased traffic, single entry point, potential traffic bottle necks, increases accidents, and a bus stop near the entrance of Chapel View Farms and the proposed project. She wants people to be aware of the impact of adding forty homes to the area. Ms. Reed suggested the developer consider placing something far in advance to let someone know they are approaching the entry to the proposed subdivision entrance. She isn't opposed to the subdivision, she is extremely concerned for public safety.

Mr. Adam Phillips spoke and stated his concern was that the proposed cul-de-sac for Pine Wind Court was too close to his adjoining property. Mr. Stephen Ballentine spoke and stated he provided an email to staff about his concerns. His neighborhood, Farrells Creek, adjoins the proposed project and their private road has a history of flooding. Mr. Ballentine stated about 2/3 of the proposed project appears to be draining towards Farrells Creek's subdivision culvert. He stated any financial assistance from the developer would be appreciated to assist the Farrell Creek residents in replacing and enlarging the current culvert. Mr. Ballentine also requested a 50' buffer by Lots 17 and 18. He stated he was in favor of the project and was happy to see a high-end neighborhood coming to the property.

Ms. Judy Gookin spoke and stated she lives downhill from the proposed project and her concerns are the stormwater and wastewater runoff. She commented that during certain times of the year water bubbles up from the ground because the land doesn't drain well and there have been issues with septic system permitting.

Mr. Eric Tomhave spoke and asked the developer if there were any plans for equestrian activities on the property. He stated a lot of residents in Chapel View neighborhood have horses and would like the developer to consider some equestrian trails. Mr. Tomhave had concerns about traffic, speeding on Martha's Chapel Road, and would the developer consider widen the road and install a bike lane.

Mr. Phillip Foote spoke and stated this would be great a project if there were twenty homes being built. He has concerns with pesticides, fertilizer, engine oil that drips from vehicles that would end up in Jordan Lake, street lights, homes being built on streams, and traffic issues.

There were no additional speakers signed up and the Public Hearing was closed. There were several issues/questions discussed by the Planning Board. Board members discussed driveway serving lot 18 and the proximity to the Phillips property. Mr. Ashness stated before the community meeting the road ending with the cul-de-sac (Pine Wind Court) extended further and closer to Mr. Phillips' property, as a result of the community meeting the road (Pine Wind Court) was shortened and the cul-de-sac is no longer behind his property. A general discussion followed and board members asked if a conservation subdivision was considered, how the development ties in with the Chatham Cary Joint Use Plan, multiple driveways, traffic on Martha's Chapel Road and Hwy 751, location of stormwater ponds, number of stream/wetland findings and types of stream crossings.

There are several lots with septic fields located across streams and/or wetlands, Mr. Ashness told the board in some areas the stream stops and only the buffer will be impacted, with Lot 39 the septic line will run along the edge of the right-of-way and stay outside the buffer and where it does cross the buffer it is less impactful. Some board members expressed concern about the “no practical alternatives” provision of the Jordan Lake buffer rules and that there was no need to cross the streams, wetlands, and buffers to install wastewater lines. Lots 22 and 23 have proposed septic lines crossing an ephemeral stream and an intermittent stream and would represent two stream crossings. The board ask if the developer would install the lines with a directional bore for Lots 22 and 23 so there would be only one septic crossing. They also asked if the developer would be willing to increase the perimeter buffer along Lots 4 and 18 an additional 20’ for a total 50’ perimeter buffer. Mr. Ashness agreed to both.

After the Planning Board discussion they voted 9-0 to postpone discussion until the September 3, 2019 meeting to allow the developer time to revise the plat to show the 50’ perimeter buffer along Lots 4 and 18 and show a directional bore for Lots 22 and 23.

The revised plat shows a 50’ perimeter buffer along Lots 4 and 18 and shows revised lot lines on Lots 22 and 23.

Stephen Ballentine submitted an email dated August 14, 2019 to staff regarding the subdivision and also included a photo showing the road crossing the creek in Farrells Creek subdivision. He states the flooding problem occurs about once or twice per year. Mr. Ballentine expressed, “it’s important that the proposed subdivision not send more drainage towards the location shown in the photo. Approximately 70% of the proposed subdivision drains to the location shown in the photo.” Mr. Ballentine also commented it appears there’s only two stormwater ponds in the portion of their neighborhood and at least half of their impervious surfaces from rooftops, driveways, and roads may bypass

the stormwater ponds. The email also included that “the new development has two options for how to address this issue. Option 1 is to build more ponds on their property in order to capture and detain all of their impervious. Option 2 is to assist our HOA in installing a new culvert under our road in order to handle increased flows from their project. Option 2 might be the more economical choice.”

Planning Board discussion included questions about increasing perimeter along Lots 4 and 18, whether a conservation subdivision was considered, directional boring for Lots 22 and 23 for septic lines, and whether the subdivision complies with the Chatham County-Town of Cary Joint Use Plan. Mr. Ashness stated the perimeter along Lots 4 and 18 can be increased and they can provide a directional bore for Lots 22 and 23. The Board reviewed the request and postpone the review until the following September 3, 2019 meeting, to allow the developer time to revise the plat to increase the perimeter buffer along Lots 4 and 18 and to revise Lots 22 and 23 to show one crossing for septic.

The Planning Board resumed discussion on September 3, 2019 and the project engineer, Mark Ashness, provided a revised layout. Planning Board discussion included directional bore for Lots 22 and 23, increased perimeter buffer along Lots 4 and 18, letter regarding stormwater concerns from a resident in Farrells Creek, if the stormwater ponds would be wet or dry, and septic on Lot 39. Mr. Ashness stated in his professional opinion they have laid out the site to avoid impacts to the greatest practical extent possible. The stromwater runoff from the project would be very minimal since the lots

were much larger than would be allowed under the current regulations. The voluntary perimeter buffer along Lots 1 through 4, 18, and 25 was increased from 30' to 50'. The proposed property lines between lots 22 and 23 were also revised to provide an area outside of the stream buffer for the septic lines in order to reduce buffer impacts. The Planning Board by a vote of 9-1 recommends approval with staff recommendations

### **How does this relate to the Comprehensive Plan:**

Plan Chatham was adopted by the Board of Commissioners in November 2017 and is a comprehensive plan that provides strategic direction to address the most pressing needs in the county. This property is located in an area identified as village center and rural on the Future Land Use and Conservation Plan Map. The bulk of the proposed project is rural and the description includes rural low density development, single homes on large lots, public open space, greenway trails, agriculture, home-base/small businesses, and two-lane roads. Folkner Branch is designed for single family homes with a minimum lot size of 2 acres and maximum of 9.96 acres. It should be noted that Plan Chatham is not intended to be used as a regulatory tool, but is a policy document. When reviewing subdivision applications the boards can use the plan as a tool to identify future regulatory changes.

### **Recommendation:**

The Planning Department and Planning Board by 9-1 vote recommends granting approval of the road name Folkner Branch Lane and Pinewind Court and granting approval of subdivision First Plat for **Folkner Branch Subdivision** with the following conditions:

1. The Final Plat shall show the acreage/square feet of the stream/feature, total usable acres, and total acres including buffer on Lots 1-12, 14-23, 31, 37-40.
2. The Final Plat shall show the cul-de-sac with a 40' radius, edge of pavement.
3. The Final Plat shall show the riparian buffer widths.
4. Approval of the First Plat shall be valid for a period of twelve (12) months following the date of approval by the Board of Commissioners and the Construction Plan approval shall be valid for a period of twenty-four (24) months from the date of approval by the Technical Review Committee or Board of Commissioners.