



# Chatham County, NC

## Legislation Text

---

**File #:** 21-4183, **Version:** 1

---

Vote on a request to approve by M. Travis Blake on behalf of Herndon Farms One, LLC for subdivision **First Plat** review and approval of **Herndon Farms**, consisting of 154 lots on 97.86 acres, located off US 15-501 N and Vickers SR-1719 and parcels numbers 93852, 2752, 18750, 18897, 18896, and 18909.

### **Action Requested:**

Vote on a request to approve by M. Travis Blake on behalf of Herndon Farms One, LLC for subdivision **First Plat** review and approval of **Herndon Farms**, consisting of 154 lots on 97.86 acres, located off US 15-501 N and Vickers SR-1719 and parcels numbers 93852, 2752, 18750, 18897, 18896, and 18909.

### **Introduction & Background:**

**Zoning:** currently R-1 with an application for a Conditional District Compact Community rezoning pending and running concurrently with this application

**Water System:** Public

**Sewer System:** Public

**Subject to 100 year flood:** No special flood hazard area within the development.

**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 Herndon Farms, consisting of 154 lots (151 residential lots, 2 commercial lots, and 1 wastewater plant lot) on 97.86 acres, located off Vickers Road, S.R. 1719 and US Hwy 15-501. A vicinity map showing the property location 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:** Koi Pond Court, Pearson Street (portion of the street), Annie Lane, Saprolite Drive, and Jolula Road are proposed to be built with 40-foot-wide public right-of-way and 27-foot-wide travel ways and Northern Lights Circle, Herndon Farm Drive, Tusen Gate, and Pearson Street (portion of the street) are proposed to be built with 50-foot-wide public right-of-way and 35-foot-wide travel ways.

All roads are proposed to be state maintained.

This project fronts on US 15-501 North with the development footprint located on the east side of the highway and wastewater infrastructure on the west side. Planning staff clarified that southbound traffic on US 15-501 N will have to make a U-turn at the intersection of Briar Chapel Parkway/Vickers Road and then travel north to access the site. Similarly, someone who wants to travel south on US 15-501 after leaving the site will travel north and then make a U-turn to travel south. There was a proposal for a left turn on US 15-501 S crossing the median into the north access drive, but that was not supported by NCDOT. Additionally, a proposed access to the site from Vickers Road could not be accommodated because the site does not have legal access to the road. Please see attachment 16 for more detail about the turning movements.

**Perimeter and Viewshed Buffers:** Fifty-foot wide (50') viewshed buffer along US 15-501 North and one hundred-foot wide (100') perimeter buffer except along adjacent commercial properties.

**Outparcel:** Parcel 2752 and 93852 off Oak Island Road, one acre will be developed for the private wastewater treatment plant.

**Amenities:** The developer is proposing a dog park, pasture, recreation field, koi pond, community barn and community center/office. Chatham Transit will have a bus stop along Herndon Farm Drive located in the Duke Energy easement and parking will be available within the easement. Duke Energy email dated May 18, 2021 states street crossings, utility crossing, trail crossings, fence crossing, and paved parking areas are compatible within transmission power line easements with certain conditions.

**Commercial:** Two commercial parcels are proposed - a 3.05 acres is planned for congregant care facility and 2.09 acres for day care.

**Historical:** The applicant contacted Bev Wiggins, Chatham County Historical Association (CCHA) and there was email correspondence between February 8, 2021 - March 24, 2021. A structure on parcel 18897 was built in 1908 and CCHA requested photos of the interior and exterior. The developer provided photos which satisfied CCHA request.

**Schools:** No notification was provided the Chatham County Schools because the project is proposed to be an age restricted community.

**Environmental Impact Assessment:** Due to the number of lots, an Environmental Impact Assessment (EIA) was required to be submitted and peer reviewed. The EIA dated August 26, 2020 and September 18, 2020 was prepared by Environmental Contractors & Consultants, Inc. (ECAC) and peer reviewed by Johnson, Mirmiran & Thompson, Inc. (JMT).

Per the EIA, Section 5.3, the major feature crossing the east and west parcels is a 90 to 120-foot Duke Power easement which bisects the east portion of the project into two sections.

The developer engaged the North Carolina Natural Heritage Program (NCNHP) to query their database and provide a report. Justin Butler, with NCNHP provided a report dated October 15, 2021. The report included that “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.” Located within one-mile of the proposed project are Dry-Mesic Oak Hickory Forest, *Cambarus davidi*, Low Elevation Seep, Mesic Mixed Hardwood Forest, Piedmont/Mountain Semipermanent Impoundment, *Thermopsis milis*, Bennett Mountain and Herndon Creek ravine.

**Community Meeting:** A community meeting was held on March 7, 2019, at 9780 US 15-501 N, Chapel Hill. Items/issues discussed included whether the homes will be affordable, will there be rental to college students, will there be development on the west side of the project, what will be in the commercial sites, will neighbor’s drinking water be affected, will the wildlife be affected, will there be any parking decks, what is the cost of the HOA fees, what are the cost of the homes, etc.

**Technical Review Committee:** The TRC met virtually on September 15, 2021, to review the First Plat submittal. Travis Blake and Lesley McAdams were present. Items discussed were stormwater ponds missing from the wastewater treatment plant, riparian buffers missing from Exhibit J.1 and being shown as spray irrigation, a discussion between the Fire Marshal and developer about the widths of the roads, and if parking spaces are allowed within the Duke Energy utility easement.

**Septic:** Soils report provided by Soil & Environmental Consultants, P.A. Private wastewater treatment plant is proposed within the project on a separate 1-acre tract.

**Water:** Water will be public and provided by Chatham County Water

**Road Name:** The road names Herndon Farms Drive, Tusen Gate, Koi Pond Court, Saprolite Drive, Pearson Street, Northern Lights Circle, and Binglee Lane, Jolula Lane have been approved by Chatham County Emergency Operations Office as acceptable for submittal to the Board of Commissioners for approval. Per Emergency Operations, Annie Lane is a duplicate road name and developer will need to submit to Planning staff an approved road name replacement prior to Board of Commissioners meeting.

**Development Schedule:** Three phases are proposed for the project. Per the Subdivision Regulations Section 5.2C(6), the first phase of phased subdivision must submit Construction Plans within two (2) years of approval of First Plat. The developer has proposed Phase 1: 151 residential lots Final Plat by March 1, 2028; Phase 2: Daycare commercial lot Final Plat by September 1, 2025; Phase 3: Congregate Care Facility commercial lot Final Plat by June 1, 2027.

**Water Features:** Soil & Environmental Consultants, PA, submitted the Riparian Buffer Review Application along with a riparian buffer map, to Drew Blake, Senior Watershed Specialist for review. Mr. Blake completed an on-site riparian buffer review April 7, 2021, with Bob Zarzecki with Soil & Environmental Consultants, PA. Mr. James Lastinger with the U.S. Army Corps of Engineers visited the site on July 7, 2021. Mr. Blake issued a confirmation letter dated May 11, 2021, of his findings.

The confirmation letter stated three (3) intermittent streams, one (1) perennial stream, and one (1) wetland were identified. The three (3) intermittent streams require 50-ft buffers, the one (1) perennial stream require 100-ft buffer, and the one (1) wetland require 50-ft buffers from all sides landward.

**Stormwater and Erosion Control:** Per the first plat, three stormwater ponds will be placed in open space. 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 September 21, 2021, and September 28, 2021, Planning Department staff and various Board members attended. Lesley McAdams was present to walk and discuss the property with staff and Board members. Areas viewed included an intermittent stream and location of lots. Questions raised during the site visit were operation of the private wastewater treatment plant and the width of the riparian buffer. Pictures of the site visit can be viewed on the Planning Department webpage at [www.chathamcountync.gov/planning](http://www.chathamcountync.gov/planning) <<http://www.chathamcountync.gov/planning>>, Rezoning and Subdivision Cases, 2021.

**Planning Board:** The Planning Board reviewed the request during their November 2, 2021 meeting. The board voted to postpone discussion to the December 7, 2021 meeting because the zoning component of the proposal was postponed.

After the board meeting the developer submitted additional documents. Per the cover letter dated December 10, 2021, perimeter buffers were increased from 50' to 100' except along adjacent commercial properties, viewshed buffer is 50' wide along US 501 North, residential lots decreased from 161 to 151, and open space increased from 40.8% to 42.2%. The applicant requested an additional one month delay in Planning Board review at the request of staff because there was insufficient time to review the supplemental information prior to the December meeting.

**Planning Board Discussion:** The Planning Board resumed discussion of this item during their January 4, 2022 meeting. Mr. Travis Blake, Developer and Lesley McAdams were present. Board discussion during the rezoning and subdivision presentations included what will be done in the perimeter and viewshed buffers, a small parking lot and transit stop within Duke Energy easement, U-turn at the intersection of Briar Chapel Parkway/Vickers Road, and realignment of Oak Island Road. During the public hearing adjacent property owners expressed concerns with potential impacts on private well and septic systems near the wastewater treatment plant and U-turn traffic pattern at an intersection on 15-501.

Mr. Blake stated there will have some clearing to plant native tree species to fill in the buffer and the remaining portion of the buffer will be untouched. The large trees within the buffers will remain. The small parking lot and transit stop is allowable within the Duke Energy easement per an email Mr. Blake received from Duke Energy. Mr. Blake stated he will work on the issues with Oak Island Road.

**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. These properties are in an area of the county identified Compact Residential on the Future Land Use and Conservation Plan Map. The proposed project areas are identified as compact residential. The description for compact residential includes a mix of detached and attached

residential units, community centers, amenities, recreational uses, schools, and churches, connected system of local and collector streets with access to surrounding development, and small pocket parks and gardens.

The proposed subdivision meets the adopted comprehensive plan. The developer also contacted the NC Natural Heritage Program to review their database for any rare species, important natural communities, natural areas, or conservation/managed areas within the project boundary and no rare species were identified in their records. 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 Board by unanimous vote recommends granting approval of the road names Herndon Farms Drive, Tusen Gate, Koi Pond Court, Saprolite Drive, Pearson Street, Northern Lights Drive, Binglee Lane and Jolula Lane granting approval of subdivision First Plat for **Herndon Farms** with the following conditions:

1. The following development schedule shall apply: Construction Plan submittal for Phase 1: 151 residential lots within 2 years of First Plat approval, Phase 1: 151 residential lots Final Plat by March 1, 2028; Phase 2: Daycare commercial lot Final Plat by September 1, 2025; Phase 3: Congregate Care Facility commercial lot Final Plat by June 1, 2027.
2. The county attorney shall review and approve the contract and performance guarantee prior to final plat recordation.
3. All riparian buffers and streams shall be labeled on the final plat.
4. Final Plat shall show the approved Emergency Operations road name as Northern Lights Circle.
5. The applicant shall provide an approved access to the wastewater treatment plant prior to any land disturbance.