



# Chatham County, NC

## Legislation Text

---

**File #:** 18-2697, **Version:** 1

---

Vote on a request to approve by Chris Seamster, PLA on behalf of Seali Enterprises for subdivision **First Plat** review of **Ryan's Crossing Subdivision**, consisting of 61 lots on 114.85 acres, located off Mann's Chapel Road, SR-1532, parcel #88505, 1777, 88506, and 1780

### Action Requested:

Vote on a request to approve by Chris Seamster, PLA on behalf of Seali Enterprises for subdivision **First Plat** review of **Ryan's Crossing Subdivision**, consisting of 61 lots on 114.85 acres, located off Mann's Chapel Road, SR-1532, parcel #88505, 1777, 88506, and 1780

### Introduction & Background:

**Zoning:** R-1

**Water System:** Public, Chatham County

**Sewer System:** Private on-site and off-site septic and repair areas.

**Watershed District:** WS-IV Protected Area and Jordan Lake watershed/riparian buffers

**Subject to 100 year flood:** Special flood hazard area is identified on the property and contained within the conservation 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. This is a conservation subdivision and lot sizes and setbacks vary, but the method to calculate net density is outlined in the Subdivision Regulations. A public hearing on the request is required per the Subdivision Regulation, 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."

### Discussion & Analysis:

The request is for First Plat review and recommendation of a conservation subdivision, Ryan's Crossing, consisting of 61 lots on 114.25 acres, located off Manns Chapel Road, S. R. 1532. A vicinity map showing the property location is included in the First Plat booklet and a revised site plan (attachment #2) has been included. The revised plat changes include revising the cul-de-sac detail to reflect a 45' radius, change the voluntary undisturbed buffer adjoining lots 44-49 to 20', and add a 20' public utility

easement on lot 46. The applicant has provided a cover letter, attachment # 3, with details of the

project.

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.” Section 7.7 J. states in part “conservation subdivisions proposed for the purposes of sustaining existing on-site bona fide agricultural operations are entitled to a five (5) percent increase in permitted density (this in addition to the ten (10) percent density bonus)....” Please read the entire Section 7.7, Items A - N for a complete understanding of Conservation Subdivisions. Also, please refer to the *Chatham County Conservation Subdivision Guidelines for Conservation Space Selection* which is available on the Planning Department webpage under Ordinances and Regulations. 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.

**Density Calculations:** The site plan notes the density including the 10% density bonus allowance. The land required to be protected within a Conservation Subdivision under other regulatory provisions, i.e. riparian buffers and floodplain, is 34.2 acres. This amount (34.2 acres) was deducted from the total acreage of 114.85 acres to arrive at the net land available consisting of 80.65 acres. Based on the net land area the lot yield would be 87.8 lots and with the 10% density bonus would increase to 96.6 lots. However, the developer is proposing 61 lots, which is less than the number of lots allowed under the conservation subdivision option.

**Conservation Space:** Of the total project area of 114.85 acres, 45.9 acres is required to be in Conservation Space and the site plan indicates that 46.55 acres will be set aside. The 46.55 acres is composed of approximately 34 acres of streams and wetlands and 13 acres of other natural areas. See the site plan for the breakdown and location of the Conservation Space. The cover letter also includes an explanation of how the conservation space was selected. The area set aside for Conservation Space meets the requirement that 40% of the project area be retained as Conservation Space.

**Natural Space:** 80% of the Conservation Space is required to be Natural Space. The Conservation Space Guidelines states “Natural space is unimproved land in it’s 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.” The site plan and cover letter indicate that this requirement will be met.

**Open Space:** A maximum of 20% of the Conservation Space may be Open Space. Of the 46.55 acres designated as Conservation Space, the cover letter indicates that less than 20% will be Open Space which meets the requirement that no more than 20% of the Conservation Space can be Open Space. The ‘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. The cover letter and site plan note three (3) potential amenity sites that could include an “open air yoga pavilion, benches, trails, gazebos, etc” with the final determination made as part of the construction plan approval process. All land disturbing activities associated with the Conservation Subdivision are subject to the full provisions of the Soil Erosion and Sedimentation Control Ordinance, regardless of the designated use or status of a given area.

**Roadways:** The roads are to be built as a 60 foot wide public right-of-way, with a 20 foot wide travelway, will be approximately 1.05 miles in length, and are to be state maintained. The developer voluntarily provided a Traffic Impact Analysis prepared by Kimley-Horn and Associates dated January 31, 2018. The analysis evaluated the new intersection for the subdivision and Tobacco Road and the recommendation concluded that “no roadway improvements are recommended to be performed to accommodate projected site traffic.” An email from Matt Kitchens, PE, Division 8 District Engineer, dated March 22, 2018 was also provided and noted “We have reviewed the traffic memo and concur with your findings.”

Delia Lane has been extended to the adjoining property to the south and is intended to be a stub road if that property is developed in the future. The Chatham County Fire Marshal reviewed the stub road and determined that a cul-de-sac was not needed due to the short length of road. Staff and the developer discussed other options for stub roads and determined that there were no other viable locations due to existing development, flood hazard areas and water features, or no corresponding stub outs from adjoining development (i.e. Briar Chapel).

The revised site plan includes an updated cul-de-sac radius of 45’ as required by the County Fire Marshal.

**Historical:** The applicant met on-site with Bev Wiggins, Chatham County Historical Association, on November 27, 2017. Ms. Wiggins toured the property and was shown a one room log cabin. A portion of Ms. Wiggins’ comments and photos of the cabin are included in the EIA and additional comments are posted on the county website. The applicant/developer hasn’t decided what will happen to the cabin at this time. Per Ms. Wiggins’ report, the property was owned by the Tripp family since the early 1800s and noted that “Structures of this age are not common in the county.” The applicant has not identified any cemeteries/graves on the subject property.

**Schools:** Notification of the proposed development was provided to the Chatham County School System. See notification in the application booklet

**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 February 5, 2018 and updated April 13, 2018, was prepared by Soil & Environmental Consultants, P. A. and peer reviewed by Carolina Ecosystems, Inc. Per the EIA, Section 5.12.2 noted that Cape Fear Shiner has been documented in a five mile radius of the site and that drainage from the site flows to Wilkinson Creek and then the Haw River. The site does not contain habitat for the shiner, however the conservation space contains and extends beyond the required riparian buffers on the site.

In the *Conservation Subdivision Guidelines for Conservation Space Selection* two maps are required to be submitted, a Fragmentation Map and an On-site Inventory Map (see attachment #5). The

Fragmentation map illustrates the project site and all land within one mile of its boundaries and is designed to assist the applicant in deciding where Conservation Space should generally be located to create connections with existing Natural Space, or allow future Natural Space connections on adjacent properties. The On-site Inventory Map is used as the “primary decision-making tool for the applicant in selecting specific areas to include in Conservation Space, and the County in issuing approvals. Data required to generate this map should be available on the Chatham County GIS and from on-site investigations. This can include information on existing landcover, proposed natural space preservation locations and acreages, topography, locations of streams, wetland, floodplains, and required buffers, adjacent natural areas, and cultural and historic resources. The county environmental data viewer is still under development and the developer has provided information using the best available information. Please review the ‘guidelines’, Item 2.1 and 2.2 for more details about the mapping requirements. The fragmentation map and on-site inventory map series are included as attachment #5. The County Environmental Quality Department staff has reviewed the maps and determined they are adequate to meet the submittal requirements. The applicant also provided a narrative in the cover letter explaining how they used the *Big Woods Conservation Design Guide* as a tool in evaluating the site. The guide is an appendix in the recently adopted comprehensive plan, Plan Chatham.

**Ownership / Management of Conservation Space:** Section 7.7 (F) of the Subdivision Regulations requires that the applicant identify the current and intended future owners(s) of the Conservation Space and who will be responsible for maintaining the area / facilities. Per the Draft Conservation Management Plan the Natural Space and the Open Space will be maintained by the Ryan’s Crossing Homeowners Association. Section 7.7 (G) requires that a management plan for the Conservation Space be submitted to and approved by the County. A copy of the draft plan has been provided by the applicant. 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. The applicant has provided a draft copy of the deed which will convey the Conservation Space to the third party (homeowners association) and has included a draft copy of the Declarations of Covenants and Restrictions. 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.

**Community Meeting:** A community meeting was held on December 15, 2017 at Mount Pleasant United Methodist Church and several people attended the meeting. Items/issues discussed included impact of septic systems on wells on adjoining properties, whether buffers would be provided adjacent to adjoining lots in Persimmon Hill, street lighting, traffic, and soils suitability to support the proposed lots. The developer provided responses in the community meeting report and noted the soils engineer noted that the septic systems “should pose no threat to the existing wells”, a 20’ undisturbed buffer would be provided, street lighting was under consideration and would comply with county requirements, a traffic analysis was being completed, and adequate soils are available for the septic systems.

**Technical Review Committee:** The TRC met on May 16, 2018 to review the First Plat submittal and the applicant/developer was present. Discussion items included adding a public utility easement between two of the proposed lots to Persimmon Hill, street lights and permitting requirements, road

stub to adjoining property, mail kiosk location, verification of water features, and other issues noted in the TRC comments provided in the application booklet.

**Septic:** A soils report and map were submitted to Thomas Boyce, Chatham County Environmental Health, LSS, REHS, Chatham County Environmental Health, for review. Mr. Boyce indicated that the report and map were adequate for a First Plat review. The information provided indicated that adequate soils are available for the proposed number of lots and a more detailed analysis will be conducted prior to submittal of the final plat.

**Water:** County water is available and the developer is proposing to extend a water line to serve the development. Larry Bridges, Chatham County Utilities Director, has reviewed the proposal and stated that the line sizes proposed are adequate and the pipe should be ductile iron.

**Road Names:** The road names Lila Drive, Evander Way, Delia Lane, Amelia Lane, and Minter Drive have been reviewed and reserved by Chatham County Emergency Operations Office as acceptable for submittal to the Board of Commissioners for approval. Normally the main road in a subdivision would match the name of the development, however Emergency Operations staff noted that the subdivision name would be a duplication. EO staff provided confirmation that the subdivision and road names could be approved.

**Water Features:** A riparian buffer report, dated November 17, 2017 was prepared by Stephen Ball, RF, PWS, and Dan McCauley, Environmental Scientist with Soil and Environmental Consultants, PA, and submitted to Drew Blake, Chatham County Environmental Quality Inspector for review. Mr. Blake and Mr. Gainey completed an on-site riparian buffer review on January 2, 2018 to verify the consultant's findings and a confirmation letter was provided. A Notification of Jurisdictional Determination dated April 18, 2018 is also included in the application booklet.

**Lot size/ Use:** The conservation subdivision option allows for greater flexibility in lot size and dimensional requirements (see Section 7.7K of the Subdivision Regulations for more detail). The typical residential lot size will be 0.81 acres with lot sizes ranging from 1.69 to 0.46 acres. There are three areas designated as "Potential Amenity Locations" and one area designated for a mail kiosk. The use of the recreation lot has not yet been determined, but examples of types of amenities is included in the cover letter. The cover letter also notes that "Residential lot setbacks will be the minimum allowed by the Ordinance and Regulations." The minimum setbacks are 5' from the front property line and the minimum required by NC State Building Code for the sides. This will provide the developer greater flexibility in laying out the lots once the more detailed soils analysis is complete.

**Phasing:** The applicant has provided a phasing schedule in the cover letter stating that Construction Plan submittal for Phase 1 within 2 years of First Plat approval and Final Plat submittal for Phase 3 (final phase) by December 31, 2025.

**Stormwater and Erosion Control:** Three stormwater ponds are proposed and will be placed in common areas. A stormwater Permit and an Erosion Control Permit will be obtained from Chatham County Environmental Quality prior to Construction Plan submittal. No work can commence on the property prior to obtaining Construction Plan approval. Chatham County Environmental Quality will issue the stormwater and erosion control permits for the entire project including the property within Orange County.

**Site Visit:** Planning Department staff and various Board members attended site visits on, May 22 and 25, 2018. Chris Seamster with McKim & Creed, Alex Barroso, and Cory Connell with S&EC were present to walk the property with staff and Board members and discuss the project. Areas of the property viewed included several stream crossings, center line of the proposed road alignment, and existing power and gas line easements. 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, 2018.

**Planning Board Review:**

The Planning Board reviewed this item during their June 5 meeting and discussion included the following: were there any comments from Briar Chapel community, in addition to those expressed from neighbors during the community meeting; how the amenities would be accessed; were there any issues with the gas line easement; did the EIA incorporate the peer review comments; and concern about the conservation space restrictive covenants including a provision that they could be terminated. The applicant's representatives responded that they had received no comments from the Briar Chapel community and that Briar Chapel included a 100' perimeter buffer; the amenities would be accessed by the public roads and common areas; there was language in the gas line easement restricting impacts; the updated EIA did incorporate and/or respond to the peer review comments; and that the restrictive covenant could be revised at the discretion of the county.

During the public hearing concern was expressed about the termination language in the conservation space restrictive covenants; that there were boulders near Persimmon Hill subdivision that would likely be found within the proposed subdivision and could create problems for development; the water table was perched in that area and could cause problems for septic systems; and whether the street lights would have full cut-off fixtures. The applicant responded that they were agreeable to modifying the conservation space restrictive covenants; acknowledged the possible issues with boulders/rock on-site; that perched water tables could create problems and they would comply with the county Environmental Health permitting requirements for septic systems; and that they would comply with county lighting requirements. Planning staff noted that outdoor lighting requirements allowed for full cut-off or solid cap light fixtures for compliance, but there were differences in the height of the pole. The developer acknowledged the concern about street lights and also noted that would make sure the street lights were outside of the riparian buffers.

Planning Board members also questioned whether the conservation space restrictive covenants allowed for removal of invasive species and if the power and gas easements were included in the conservation space. Staff commented that it was reasonable to assume that removal of invasive species would be allowed, but that question had not been brought up previously. The applicant's representatives responded that the easements were not included in the conservation space calculation.

The Planning Board by unanimous vote (8-0) voted to recommend approval of the subdivision with the addition of a condition to modify paragraph #6 of the conservation space restrictive covenants to modify the provision that it could be terminated.

**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 of the county identified as Compact Residential on the Future Land Use and Conservation Plan Map. The description for Compact Residential includes development that is a "mix of detached and attached residential units complemented by a variety of open spaces" with a range of public/open space ranging "from large natural resource areas to small

pocket parks and gardens.” Strategy 5.2 under the Land Use Element includes that conservation subdivisions should have open spaces designed so they can extend across property boundaries to create corridors and core areas.

**Recommendation:** The Planning Department and Planning Board, by unanimous vote, (8-0) recommend granting approval of the road names Lila Drive, Evander Way, Delia Lane, Amelia Lane, and Minter Drive and granting approval of subdivision First Plat for **Ryan’s Crossing Subdivision** with the following conditions:

1. The following development schedule shall apply: Construction Plan submittal for Phase 1 within 2 years of First Plat approval and Final Plat submittal for Phase 3 (final phase) by December 31, 2025.
2. The developer shall work with the Environmental Quality staff prior to Construction Plan submittal for compliance with the riparian buffer requirements of the Watershed Protection Ordinance and obtain any buffer authorizations necessary to develop the Trail / Greenway Plan. A trail/greenway map is to be submitted along with the Construction Plan.
3. 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.
4. Revise the conservation space restrictive covenants to delete the provision that they can be terminated.