



## Chatham County Planning Board Approved Minutes May 1, 2018

The Chatham County Planning Board met in regular session on the above date in the Agriculture Building Auditorium, Pittsboro, North Carolina. Members present were as follows:

Present:

Carolina Siverson, Chair  
George Lucier, Vice-Chair  
Bill Arthur  
Allison Weakley  
Gene Galin  
Clyde Frazier  
Emily Moose  
Brian Bock  
Jon Spoon

Absent:

Jamie Hager  
Tony Gaeta

Other: Diane Hales, Board of County Commissioner

Planning Department:

Jason Sullivan, Planning Director  
Dylan Paul, Planner II  
Angela Birchett, Zoning Supervisor  
Paula Phillips, Clerk to the Board

- I. INVOCATION AND PLEDGE OF ALLEGIANCE:  
Mr. Galin delivered the invocation and afterwards everyone stood and recited the Pledge of Allegiance.
- II. CALL TO ORDER:  
Chair Siverson called the meeting to order at 6:30 p.m.
- III. DETERMINATION OF QUORUM:  
Chair Siverson stated there is a quorum (8 members were present and 2 absent) Mr. Arthur arrive arrived later.
- IV. APPROVAL OF AGENDA:  
Approval of the Agenda-Agenda was approved
- V. APPROVAL OF THE MINUTES: Chair Siverson asked for consideration of a request for approval of the April 6, 2018 minutes with the proposed changes by Ms. Weakley and Ms. Moose. There were no objections by board members and the April 6, 2018 minutes were approved.

VI. PUBLIC INPUT SESSION: There were citizens signed up to speak on Mays Chapel Rd and Carolina Analytical as part of the business rezonings. Chair Siverson stated that citizens could speak as we got to each item. See below for comments.

VII. SUBDIVISION: No Items

VIII ZONING

LEGISLATIVE REQUEST:

1. A Legislative Public Hearing request by Scott Griffis dba Courtesy Towing to rezone Parcels 5150 and 5804 (2.91 acres collectively) from R-1 Residential to IL Light Industrial General Use located at 860 Pea Ridge Road, Cape Fear Township.

Ms. Birchett gave a brief overview of the staff notes. She noted it is located a half mile from Haw River and there are no water features or special flood areas. She noted there are also several parcels zoned Heavy and Light Industrial and Community Business, within ½ mile of this property on the south side of US 1 that include a mix of non-residential uses.

She continued to read the 4 Standards included in the request.

There is a 12 inch county water line that runs along Pea Ridge Road and the applicant will be required to connect to the system and there is a fire hydrant within approximately 250 feet of the proposed location for the business.

Ms. Birchett reported that the intent of the business is largely dependent on contracts with law enforcement agencies and offer short term storage of impounded vehicles. She ended by reading the Consistency Statement provided by staff.

**Public Input for this item-None**

The applicant, Mr. Scott was available to answer board questions.

Board discussion followed and below are some items noted:

- The property owner on the deed is Mr. Smith, is he the current owner? Ms. Birchett said yes he is, the applicant is in the process of purchasing the property contingent on the outcome of this request. She also added that the property owner has signed the application request.
- When you have completed this, how much impervious surface will there be? Mr. Smith said there will be less than 10k square feet.
- Are you operating the business now and is there any run-off concerns? The applicant said yes, for 5 years. He explained that

he is not in the salvage business and has no desire to be. He explained that he receives a 911 call about a vehicle that has possibly been involved in an accident and the driver may be taken to the hospital or jail. He will then go and pick up the vehicle from the scene and he is currently storing these vehicles at George Farrell's Jordan Common's property located on US 64 E. He said yes, the damaged vehicles are usually leaking something. If the vehicles are not recovered within 3-4 months he will go through the legal process to obtain ownership and then he recycles them or donates them to the fire departments.

- Concerns about general use rezoning to LI, the list of business types was noted by the board member. The applicant noted that they originally were going to apply for a CUD and they were told by planning staff they would have to submit the request as a Light Industrial Use. Vice-Chair Lucier voiced concerns about the uses in that zone.
- Is this in the bubble of the Employment Center-Yes, it is.
- It was noted by a board member that the Zoning Ordinance on page 46 has a list of things that are not compatible with the residential area.
- Concerns about permitted uses in industrial zones were brought up at the last meeting and there was a discussion about going through a process with the BOC including a public hearing for the review of the list of uses to see if more need to be added to the CUP list.
- It appears the applicant has met the recommendations, what's to say we can't approve this?
- There was a question about the Consistency Statement, it says "close proximity", and it is within the bubble. Ms. Birchett said that she would correct that to say "within".

Motion was made by Mr. Galin to approve the Consistency Statement with the change to within the bubble; second by Mr. Bock

Motion passed unanimously 9 to 0

Motion made by Mr. Galin to approve the request; seconded by Mr. Bock.

Ms. Weakley has reservations about the request even though some parcels are zoned industrial that one side of the road is residential and so many permitted by right general uses that would fall into the LI category she has a hard time supporting this.

Motion passed 8 to 1 Ms. Weakley against

2. A Legislative Public Hearing request by Moncure Holdings, LLC to rezone Parcels 5620, 65277, 66669, 65276, 5369, 5623 from R-1 Residential and Conditional Use Heavy Industrial to IH Heavy Industrial General Use being a total of 686.45 acres, located off the Moncure Flatwoods Road and Christian Chapel Church Road, Cape Fear Township.

Ms. Birchett gave a brief overview of staff notes. She also read the Standards and Consistency Statement provided by staff.

She noted that adjacent property owner Mr. Brown had expressed at the Public Hearing on April 17, 2017 concerns about the types of industries that may be located on the property and how adjacent property owners will be notified. He owns a tree farm and is concerned about future land uses. Ms. Birchett continued to read the Standards for this request.

Mr. Sullivan explained the 10/70 option for the watershed and that 10% of the drainage area can be built to 70% impervious surface. He also said that part of the site is in the plan map employment center bubble area.

One board member asked if the County has an option on the 984 acres even though Moncure Holdings owns it. Mr. Sullivan answered yes, they do. He also said that the 10/70 would not apply to the entire 684 acres, only what is in the circle, outside of that the 36% impervious surface would apply.

Ms. Birchett said that Attorney, Ms. Beth Trahos and Mr. Steve Strowd are available to answer questions the board may have.

Ms. Trahos explained that the county has designated the area to be used as an Employment Center as per the COMP Plan and it is appropriate for multiple uses. She also added that the proposed zoning is appropriate for intense industrial usages and the existent significant infrastructure. She said there are other businesses already in the area; such as a brick company and Coal Ash storage facility. She asked that the board support this request.

Board discussion followed and some points made were as follows:

- Questions about the rail spur line location and if it could be relocated. They are working with the State and County and nothing has been decided as of now. Ms. Trahos also noted that they have reached out to the neighbors and will work with them.
- This area is in the process of being state certified as a Megasite and the only thing remaining is for this property to be zoned industrial as required by the state.
- Ms. Weakley said there are lots of streams and wetlands on this property. She is hesitant to approve voicing concerns on what will

control stormwater and the impacts most of all on impervious surfaces. They will comply to meet all state and county requirements. Mr. Strowd said that all wetlands required under state certification have been identified and delineated and approved by the Corp of Engineers and will be protected.

- What about stormwater and any industry facility that will need a MPDS Permit? The City of Sanford and Chatham County are in the process of building a new sewer line line from the City of Sanford to the Mega Site.
- As you market and look to resale this to a manufacturer are you going to keep the pricing of this property consistent with the area that is under option with the county? Mr. Strowd said yes, the County has a 1,000 acres, if the county needs to expand the option, Moncure Holdings is willing to do that. He noted that Moncure Holdings has been cooperative with the county and to make something good happen there. There is already a 4 train track system coming in to support the coal ash. The property is surrounded by commercial uses, some of the land you are considering tonight is part of the Sharon Harris land. It is completely surrounded by commercial uses.
- The county has strict stream buffer regulations, will you comply with those? Yes, and this is the first step, everything will come back to the county for review and approval of the site plan. Mr. Sullivan noted that it will go to the Appearance Commission for an internal review process.

Mr. Sullivan reported that in late 2016 the board looked at the table of permitted uses and identified those that should go through the conditional use permit process, 40 to 50 changes were made. Factoring in the Megasite was one of the main drivers of the changes.

Vice-Chair Lucier said that he supports this and would like to move this along as it is an essential step to marketing this project.

Mr. Strowd said that the new shoreline will eliminate the waste that's going into the stream. This will eliminate the waste treatment in the area that needs cleaning up. Sanford runs an award winning program.

**Public Input for this item as follows:**

Mr. Brown spoke and said his concern is that everything is vague now and not definitive about what is proposed. He said that the rail line there is one for the coal ash, the little information he has seen is the spur lines on the other side on Moncure Road. He said it goes through his tree farm. He was glad that members have been out to the area and looked at it. He feels that the runoff could be approved upon. Mr. Brown would like to know more about the buffers, he is concerned about the noise, pollution

and would like the board to consider this. He added that he is just here for more information and he feels their life will be turned upside down. He owns four parcels and it is family land. Ms. Birchett stated that there is a 100' buffer, not 60'. Mr. Brown said in the country that is not much.

- Ms Weakley expressed her concerns on how the stormwater handled, the Sanford water intake is downstream.

Mr. Strowd addressed the board and said that 4 square miles of land will be well buffered. He assured Mr. Brown there will be ample buffers and it will come back to the Planning Board for approval. He offered for Mr. Brown to come by his location and he can look at all information pertaining to this request.

It was clarified that once the property is zoned for HI uses it would not be back to the PB for approval but would be staff reviewed.

Vice-Chair Lucier made a motion to approve the Consistency Statement; seconded by Mr. Arthur

Motion passed unanimously 9-0

Motion made by Mr. Arthur to approve the request; seconded by Mr. Bock

Motion passed 8 to 1. Ms. Weakley against

Ms. Weakley has concerns about the floodplain and drainage to the watershed as well Mr. Brown's concerns. She needs to know more about what is going there.

3. A Legislative Public Hearing request by the Chatham County Board of Commissioners to rezone parcels 5379 and 5842, containing approximately 984 acres, from CU IND-H Conditional Use Heavy Industrial and R-1 Residential to IND-H Heavy Industrial, located off of Moncure Flatwood Road.

Ms. Birchett read from the staff notes, 4 Standards and Consistency Statement.

There was no board discussion for this item.

**Public Input for this item-None**

Mr. Spoon made a motion to approve the Consistency Statement; seconded by Mr. Arthur

Motion passed unanimously 9-0

Motion made by Mr. Arthur to approve the request; seconded by Mr. Bock.

Motion passed 8 to 1. Ms. Weakley against

Ms. Weakley said she understands the limitations of not being able to get certification without the zoning, but she would feel better if it was CU zoning. There is a lot of land, wooded areas, lot of water resources and that folks like Mr. Brown would be greatly affected by some of the permitted uses allowed.

4. A Legislative Public Hearing request by Dale & Mary Stansell to rezone an additional .25 acres of Parcel No. 5248 located at 1060 New Elam Church Road from R-1 Residential to CD-NB Conditional District Neighborhood Business to expand the existing boat and RV storage facility, Cape Fear Township.

Ms. Birchett gave a brief overview of the staff notes, she also read the Standards, Conditions and Consistency Statement. She said that the majority of the property is also located in a special flood hazard area associated with Shaddox Creek. Approximately 2.75 acres is floodable and cannot be developed. She said that when the original approval was granted the Flood Insurance Rate Maps (FIRMs) at that time did not show special flood hazard area on the property. Updated FIRMS were provided to the county in 2013 and adopted in November 2017. The new maps indicate that almost one half of the property is within a flood prone area. The new proposed area also has some floodable area but will not be permitted to be used for storage or construction of any kind based on the regulations of the Flood Damage Prevention Ordinance. She added that the owner has been notified about this.

**Public Input for this item- None**

Board discussion followed and some items noted were as follows:

- Can a fence be installed? Yes, he can put in a fence, it would depend on the type.
- Does the special flood area change the calculations? No, it is still 3%. Mr. Sullivan requested to modify the condition Item 1, to show only the 2.5 acres

Vice-Chair Lucier made a motion to approve the Consistency Statement; seconded by Ms. Moose.

Motion passed 8 to 1. Ms. Weakley against.

Ms. Weakley questioned the consistency statement's claim that the request supports tourism. Board members discussed this and most felt that it did indeed support tourism.

Vice-Chair Lucier made a motion to approve the request with the one change to Item 1 Condition; seconded by Mr. Arthur

Motion passed 8 to 1. Ms. Weakly against

Ms. Weakley said that she would feel better if there that Ms. Weakley said she would feel better if there were more stormwater controls because of the added impervious surface in the request.

She asked if there were stream buffers? Ms. Birchett replied, yes. She also has concerns with the flood plain area.

5. A Legislative Public Hearing to consider County-initiated rezonings of businesses in the formerly unzoned portion of Chatham County.

Chair Siverson stated that this is the county initiated rezonings of businesses. There were 3 out of the 52 parcels that will be pulled out, they are Mays Chapel, Carolina Analytical and Shakori Hills.

Mr. Paul gave a brief overview of the staff notes. Mr. Sullivan viewed the area on the GIS to show the properties.

This portion of the approval request is to rezone 49 of the 52 parcels.

### **Public Input for the 49 properties- None**

Board discussion followed and some items noted were as follows:

- Do these have to be permanent rezonings? Yes, if approved makes existing business in the previously unzoned areas of the county conforming uses and that the Planning Board had made this recommendation for the rezoning of those existing business properties. Vice Chair Lucier stated that this protects those businesses that have set up and operated in good faith.
- Concerns of more pockets for HI, are there any Heavy Industrial? Yes, Mr. Paul said there are 12 parcels
- One specific use targets per Jason. Just used for expansion of these specific businesses.
- There are a lot of car service stations

Motion was made by Vice-Chair Lucier to approve the Consistency Statement on the 49 parcels; seconded by Ms. Moose

Motion passed unanimously 9-0

Motion made by Ms. Moose to approve the request for the 49 rezonings; seconded by Mr. Bock

Motion passed unanimously 9-0



## **Public Input Session for Carolina Analytical**

Mr. Jerry Wilson spoke and said that he is the closest property to the parcel. He said that it was family operated and he has no problem with them. There was dumping of biodegradable materials and the fish started dying in the neighbor's pond, the EPA and Health Department came out to investigate. They checked where the water was running in to his ditch and concluded that it was arsenic in the well and pond. When this was brought up he reported they changed their business name and later they found out they had a pond on the opposite side they were dumping in. The EPA got involved and had them dig out the pond. Mr. Wilson said they were not in compliance and more than anything else he is concerned about health issues. He said that there have been deaths caused by cancer deaths. He has put his land in a trust now, does not want it to effect his family after his death. If they sell the business they will have no control and all they will do is change the business name. Additionally, he has concerns with the water on the pastures where cows are drinking the water. There is a signed petition from the community. He appreciates the board's time and ask that they not support this request. He also requested that the county test it again on a routine basis.

Board discussion followed and some items noted were as follows:

- Is it documented about the arsenic that was found? Mr. Sullivan said yes it is, they finally got their compliance letter recently. They have a pump and haul system permit. There was a clearance from the state per Ms. Lowry with Environmental Health.
- Concerns that they can continue to operate as a non-conforming use.
- Can they expand? Yes, within that parcel.
- Concern is if someone else buys it they can use it for another use.
- Can it be tested again? Yes, and it should be done on a routine basis. What can the county do? Mr. Sullivan will provide Mr. Wilson with the phone number to Environmental Health to follow-up on testing.

Motion made by Mr. Bock to deny the Consistency Statement as stated and replace it with the one below; second by Ms. Moose

*"It is not in compliance with Plan Chatham, it impairs the integrity of the neighborhood and is inconsistent with the spirit of the Board of Commissioner goals and health goals".*

Motion passed unanimously. 9-0

Motion made by Mr. Bock to deny this request for rezoning; seconded by Mr. Arthur

Motion to deny the rezoning request passed unanimously 9-0

### **Public Input-Mays Chapel Road Rezoning**

Ms. Briggs, 68 Laurel Hill Drive, Bear Creek, said that she is here to speak on behalf of her and her husband as well as neighbors. She knows the Planning Department and the BOC said to consider the requests separately. She said the Rocky Hills Road property has now come to Mays Chapel Road. The Town of Pittsboro has been dealing with this for 8 years and cannot resolve it. This is a known fact that it has now come to Chatham County. This is a residential community and the Town of Pittsboro has washed their hands of it. She asked the board to deny this rezoning request.

Mr. Quavadis McMillian of 115 Buckeye Ridge Rd., Bear Creek, spoke and said that he owns 32 acres and has lived at this property for 32 years, his property is across from the parcel in this request. It is his desire that his sons will come home after college and run a business there. He is here to discuss value and legal ramifications. He said this business has been in violation with the Town of Pittsboro for years. They are storing cinder blocks and pallets. He said you can't even give this stuff away. There will be no new jobs, for revenue, there is no tax money generated from the debris. At the last BOC meeting, Ms. Briggs spoke with several realtors and she was told it will lower their property values. He is worried about environmental effects, he had the opportunity to speak with a NC Wildlife Biologist that was doing an assessment in the Bear Creek area. He was told it was one of last creeks with otters, beavers, and he is concerned with runoff to the creek with this debris. The last thing he wants to talk about is the legal ramification. The potential owner has been involved with violations and lack of regard for laws and ordinances. He is respectfully asking the board to vote no to show the citizens that you believe local laws should be enforced.

Mr. Tony Antonelli of 1957 Mays Chapel Rd. has lived there for 30 years and he has concerns about his well. He has 15 acres of wooded area and he can see this property and all of its junk when the leaves are down. He moved from Cary to this property to be out in the country. His primary concern is with how it will affect the property value, he added this is a nice and quiet community. He does not want this junk out there and requested that the board vote against this request.

Mr. Val Chadwick of 121 Mays Lane, Bear Creek, spoke and said that he works with Chatham County Solid Waste and has been in court for years with this specific person and that they have no intention of following any ordinance in Pittsboro and the NOV. He continues to say that the Town

of Pittsboro is not following up and enforcing the NOV and now the debris is being moved to Mays Chapel Road. This is a future toxic situation and this is not going away.

Board discussion followed and some items discussed were as follows:

- What is going on at Rocky Hill Road? Ms. Birchett said the owners have been in violation with the Town of Pittsboro and are operating a residential business. She said they were cited, and the owner was bringing in what the county calls salvage building materials. He has had a second opportunity to clean up the property and still has not complied.
- What is the current business there? There was a change of use form submitted. It was a distribution/warehouse. Invested use storage in house. They were given the opportunity for that use. The property was sold a couple a weeks ago as told to planning staff.
- Can the county clean and take his property. The NOV on file has to start immediately, if he violates that it will go to court and then there could be a lean on property. It was stated that there is a process that we will have to follow.
- If it is left as R1 will it go away? The property will be required to come into compliance.

Motion made by Vice-Chair Lucier to deny the Consistency Statement as written and use the Consistency Statement below instead; seconded by Mr. Bock (same one as used for Carolina Analytical request)

“It is not in compliance with Plan Chatham, it impairs the integrity of the neighborhood and is inconsistent with the spirit of the Board of Commissioner goals and health goals”.

Motion passed unanimously. 9-0

Motion made by Mr. Bock to deny the parcel rezoning request; seconded by Mr. Arthur

Motion passed unanimously 9-0

Chair Siverson addressed the Shakori Hills rezoning to a light industrial zoning saying that she lived in the neighboring area and had spoken with neighboring property owners who had been unaware of the proposed zoning to IL and who would not be happy with many of the uses allowed in that zoning. She asked if the request could be downzoned to Regional Business and Mr. Paul stated yes, that the present use would be covered by RB. She questioned if Shakori Hills had requested the IL designation and the Mr. Paul answered no, that staff had chosen that designation based on present use but that RB would work as well. Mr. Paul was asked if Shakori Hills need to do anything to request the downzoning and the answer was no, that this was staff generated and a down-zoning

would be allowed. Vice Chair stated that we need a vote to downzone to RB and a consistency statement. Ms. Birchett stated that the same statement used for the 49 rezonings earlier could be used.

Motion made by Mr. Arthur to approve the *Consistency Statement used earlier* for the 49 rezonings; seconded by Vice Chair Lucier

Motion passed unanimously 9-0

Motion was made by Vice Chair Lucier to rezone the parcel to RB; seconded by Mr. Arthur.

Motion passed unanimously.

QUASI-JUDICIAL REQUEST:

1. A Quasi-Judicial request by Beth & Joseph Pendola dba Old Lystra Inn, Parcel No. 18649, located at 1164 Old Lystra Road, for a Conditional Use Permit for a Bed and Breakfast Inn on approximately 10.034 acres, Williams Township.

Ms. Birchett read from staff notes and said this was previously known as Windy Oaks. The property was purchased in 2017 and at that time the owners were not sure what they wanted to do with it. She continued to read the 5 Findings and Site conditions read, 2 were added.

They have been using the property as an owner-occupied bed and breakfast with no more than two rooms for rent to see if it would work. They noted they want to bring it back to what is used to be and provide the historical component as well.

Board discussion followed: It was a straight forward request and that the use was desirable for this location.

Motion made by Vice-Chair Lucier to approve the request; seconded by Ms. Moose

Motion passed unanimously 9-0

TEXT AMMENDMENT REQUEST:

1. A Legislative Public Hearing request by the Chatham County Board of Commissioners to adopt revisions to the Chatham County Subdivision Regulations to reflect recent legislative changes and recommendations by planning staff.

Mr. Paul read from staff notes providing an overview of previous meetings held by the Planning Board. In 2015 and 2017, the Legislature adopted new legislation narrowing local governments' ability to regulate zoning and subdivisions. In 2017, the Legislature also adopted new legislation which added another category of legal

subdivision. The new pieces of legislation became effective October 1, 2015, July 1, 2017, and October 1, 2017, and have implications for the County's Subdivision Regulations

Mr. Paul continued to say that on March 6<sup>th</sup>, the Planning Board discussed this item and tabled a vote on it and asked Planning staff to review whether S.L. 2015-90 removes the County's authority to require Environmental Impact Assessments to include "indirect or secondary impacts" of a project. The County Attorney's Office had initially recommended amending the Subdivision Regulations to remove the requirement of "indirect or secondary impacts" on the EIA, based on his interpretation of S.L. 2015-90. Following the March 6<sup>th</sup> meeting, planning staff consulted with the County Attorney's Office and the legislation was reviewed again and it was reconfirmed that S.L. 2015-90 does remove the County's authority to require Environmental Impact Assessments to include "indirect or secondary impacts" of a project. For reference, S.L. 2015-90 is included your packet.

On April 3<sup>rd</sup>, the Planning Board discussed this item and tabled a vote on it and asked Planning staff to review whether S.L. 2015-90 conflicted with federal provisions for addressing indirect and secondary impacts in an EIA. Planning Staff consulted the County Attorney's Office to determine if any such conflicts existed. The response included that "the General Assembly does control the authority of counties to require environmental statements by ordinance, and therefore can require that only direct impacts have to be discussed." However, he also stated that "if the project in question requires any kind of federal action and may have major impacts including indirect impacts , the County can weigh in as a commenting agency and urge the federal agency to require an EA /EIS and to consider the full range of indirect impacts and, for that matter, also cumulative impacts."

As far as requiring indirect and cumulative impacts be shown on an EIA, however, it was concluded "that Chatham County is restricted to requiring only direct impacts in an environmental statement under its ordinance."

Board Discussion Followed and some items discussed were as follows:

- Vice-Chair Lucier stated that there were other proposed revisions to the subdivision ordinance but that the one at issue was the one addressing direct impacts and that as a matter of principle he cannot vote for the revision. It was questioned whether this could be separated out of the request.
- Some board members said they feel like their hands are tied
- Concerns about raising the threshold of 2 acres to 10 acres is problematic.
- Mr. Bock asked if the Law requires the county to amend their ordinances to conform to state law and the answer was yes the statute requires the county to amend. It was stated by a board member that our hands are tied.

