



## Watershed Protection Board Agenda Notes

Date: April 8, 2021

Agenda Item:  Variance  Text Amendment  Other:

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<b>Subject:</b>	A legislative public hearing for a request by Moncure Holdings LLC and Moncure Holdings West LLC to amend Section 302 (E)(2)(b) of the Watershed Protection Ordinance to establish an overlay district where the 10/70 option applies in the Cape Fear WS-IV Protected Area watershed district and to amend the Watershed Protection Map to establish the boundaries of the overlay district.
<b>Action Requested:</b>	See Recommendation
<b>Attachments:</b>	The application materials and supplementary documents are available on the following website: <a href="https://www.chathamcountync.gov/government/departments-programs/planning/rezonings-subdivision-cases/2021-items/moncure-megasite-watershed-ordinance-text-amendment">https://www.chathamcountync.gov/government/departments-programs/planning/rezonings-subdivision-cases/2021-items/moncure-megasite-watershed-ordinance-text-amendment</a>

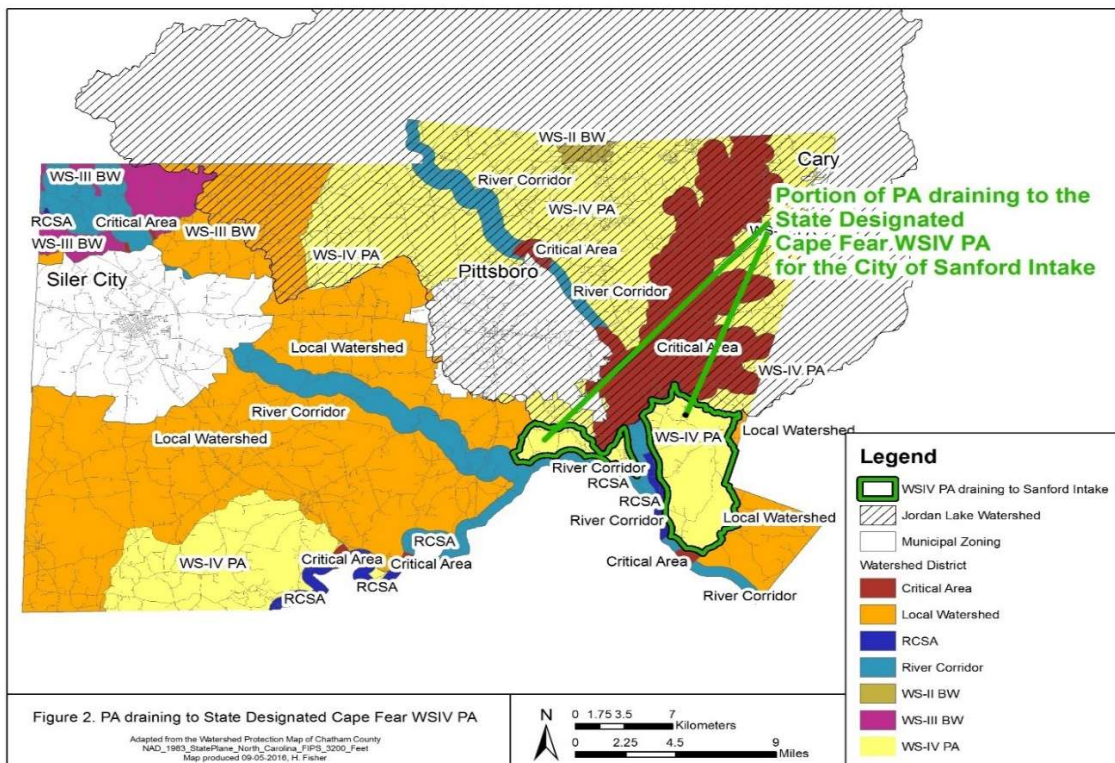
### **Introduction & Background:**

A legislative public hearing was held on this request during the February 15, 2021 Board of Commissioners meeting. Staff presented the item and Brendie Vega, Director of Planning with Withers Ravenel, responded to questions from the board. There were no comments provided by the public and staff has not received any written comments. There are two parts to the request 1) amend Section 302 (E)(2)(b) of the Watershed Protection Ordinance to establish an overlay district where the 10/70 option applies in the Cape Fear WS-IV Protected Area watershed district and, 2) amend the Watershed Protection Map to establish the boundaries of the Moncure Megasite overlay district.

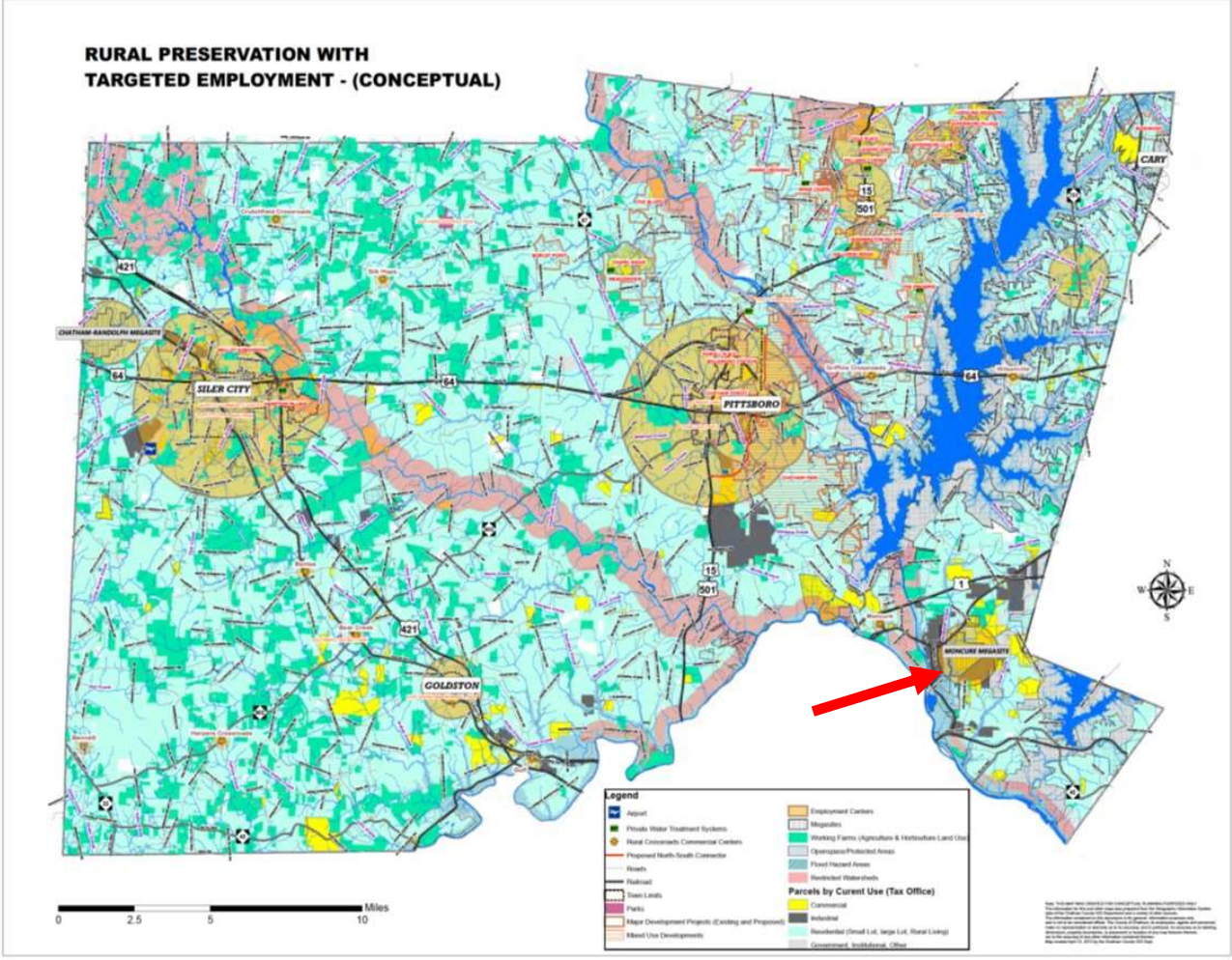
## Discussion & Analysis:

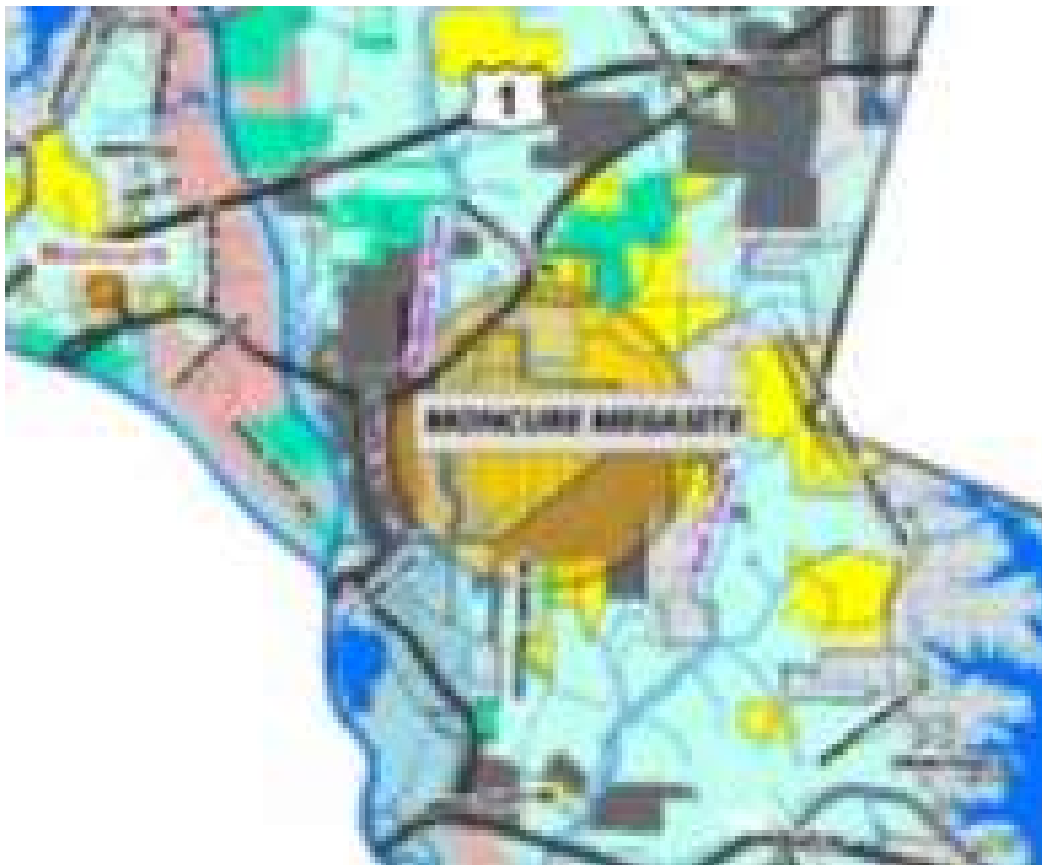
The Watershed Protection Ordinance was adopted by the Board of Commissioners in December 1993. This was a requirement by the Legislature for all local governments with surface water supply intakes along rivers and impounded water bodies. A model ordinance was provided to local governments that included two options for implementation: low density or high density. The low-density option establishes the maximum allowable density for residential uses and maximum allowable built-upon area for non-residential ranging from 12% to 36%. The low-density option also includes a provision for a “10/70 option” that will be explained in more detail. This high-density option allows 12% to 70% built-upon area for residential and non-residential uses with a requirement for stormwater controls for those projects. The Board of Commissioners chose the low-density option for the county when the watershed ordinance was adopted. The model ordinance provides that a 10/70 option may be adopted for certain watershed districts under the low-density option. The 10/70 allows for 10% of a watershed the flexibility of up to 70% built-upon area and is approved as a special non-residential intensity allocation (SNIA). The 10/70 option has been in place in several county watershed districts but did not include the WS-IV Protected Area.

In October 2016, the Commissioners adopted an amendment to the Watershed Protection Ordinance establishing a 10/70 option in the Cape Fear WS-IV Protected Area watershed district. The application materials for the 2016 request can be accessed from the following website: [http://cms6ftp.visioninternet.com/chathamcountync/planning%20board/attachments/2016/2016\\_items.htm](http://cms6ftp.visioninternet.com/chathamcountync/planning%20board/attachments/2016/2016_items.htm). This district is located south of the watershed draining to Jordan Lake and east of the confluence of the Deep and Rocky Rivers. See the following map for the boundaries of this watershed district.



At the time the 10/70 option was adopted for the WS-IV PA Cape Fear watershed district, the applicant requested that increased built-upon area would apply to an area defined as the Moncure Megasite Employment Center as referenced in the Conceptual Plan Rural Preservation and Targeted Employment plan prepared by Economic Development Corporation and adopted by the Commissioners in July 2013 (see below).



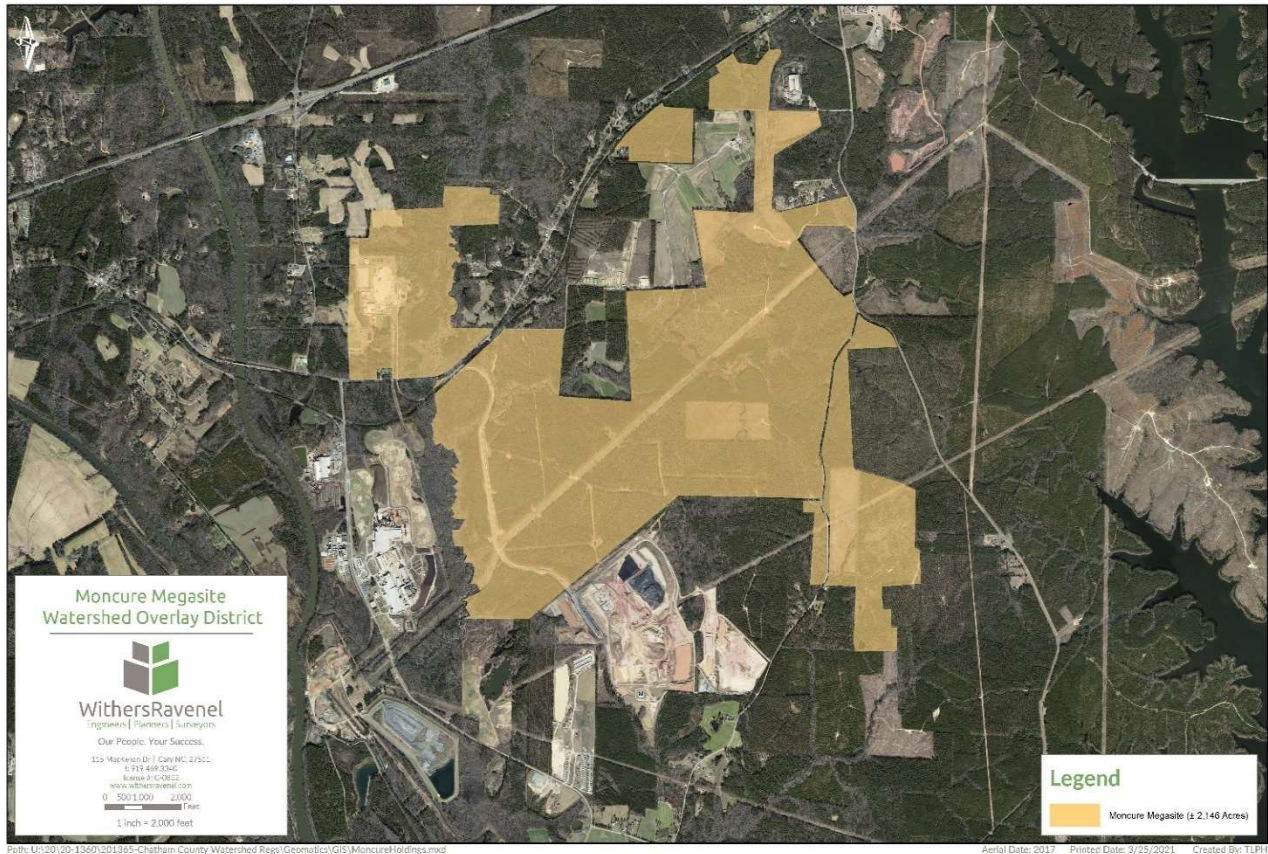


The figure above is an expanded view of the existing approved area for the 10/70 option. This request is to modify the area where the 10/70 option can apply in the Cape Fear WS-IV PA watershed district by establishing an overlay district on the Watershed Protection Map based on parcel boundaries. If approved, the new overlay would be included on the Watershed Map for Chatham County.

County staff concur that an overlay district approach is a better method than the existing circle on the conceptual plan. The conceptual plan is a separate map from the Watershed Map and is not based on identifiable boundary references. Staff forwarded the proposed text amendments to Paul Clark, Water Supply Watershed Protection Coordinator with the NC Department of Environmental Quality, and the revisions have been approved.

There is a rezoning process running concurrently with this text amendment application. Most of the area shown in the Moncure Megasite overlay district is zoned Heavy Industrial, but there are a few parcels that are zoned residential. The applicant has submitted rezoning applications for those parcels. A public hearing on the rezoning was held on February 15, 2021 and the Planning Board started their review on March 2, 2021. Both the rezoning and watershed amendment applications are running concurrently but neither the Planning nor

the Watershed Review Board must make a recommendation prior, or subsequent, to the other board decision. The map below depicts the new proposed overlay.



### Summary of Watershed Review Board Meeting on March 11, 2021:

The ERAC/WRB Board met on March 11, 2021 to discuss the text amendments requested by the applicant. The board, by unanimous vote, tabled the discussion to April 8, 2021. The following was discussed:

The applicant representatives stated adherence to the required standards set forth in the Watershed Ordinance. The buffer requirements for existing lots will not change during the development of the properties if no division of land occurs. The applicants are not increasing the overall allowance for the 10/70 option but are creating an overlay district that would include additional properties not shown in the existing map.

Some WRB members expressed concern that stream buffers for typical development in Chatham County would only be triggered if a division of land is requested. Existing lots prior to 2008 revision of the Watershed Ordinance only require 50-foot buffers on mapped USGS streams, not on field verified streams (or ephemeral and wetlands), and many parcels in the Megasite may only be subject to those earlier buffer requirements. The applicant representatives stated the intention to subdivide some properties to create parcels for prospective industries once they know who the interested parties are and how much property they would need. It was confirmed once that process starts, buffers would be field verified and provided to the most stringent standards of the Watershed Protection

Ordinance. The 10/70 option triggers automatic 100-foot buffers on perennial streams. Language is included in the text amendment to reflect the provision.

The WRB also expressed concerns on whether the properties outside of the Megasite would be able to tie into the sewer system coming from Sanford. The applicants stated they do not have the authority to allocate sewer to properties outside of the development but did not know what the county had agreed to with Sanford.

A WRB member identified that there is a portion of property located in the RCSA (River Corridor Special Area) Watershed (Parcel 5814) included in the overlay. Planning director, Jason Sullivan, stated that area would only be allowed to develop up to 50% of the area and not 70% due to restrictions already in place in the ordinance. The applicant agreed to remove the 10/70 area mapped in the overlay from the RCSA.

The WRB ultimately requested more information including answers to questions that resulted from the Planning Board meeting held on March 2, 2021, consideration of buffers, and feedback from next meeting of the Planning Board.

The following map has been updated by the applicant to remove the River Corridor Special Area from the Moncure Megasite overlay district. There is a review below of the Planning Board discussion, along with questions and responses from the applicant and Planning staff.

**Summary of Planning Board meeting on March 2, 2021 & Questions w/ Responses:**

The Planning Board, by unanimous vote, tabled the discussion to the April 6, 2021 meeting to receive answers to questions and to consider ERAC/WRB comments.

George Lucier had multiple concerns regarding 4 of the 7 parcels requested to be rezoned. Parcel 92884 shows access from R Family Rd, but also has road frontage on Christian Chapel Church Rd. In reviewing the recorded plat, it was found that there is no recorded easement. There is concern that this could be used as access to the properties, but staff clarified that before development is to begin, this would be reviewed. All activity involved with a project must be included in the zoning. Parcel 5604 is adjacent to parcel 67198, which has a tax exemption for land use. The concern is that this property is not directly adjacent or adjoining to property currently zoned non-residential. Parcels 5321 and 5814 was questioned why this should be rezoned if most of the property in this rezoning request is unusable due to being on the east side of the water feature and the amount of floodable area.

Caroline Siverson was concerned about parcel 5604 not being connected to any other mega site properties. Sam Rauf, EDC, commented that it is still close and could be used for a smaller developer. Another question was why weren't these parcels requested to be rezoned in 2018 with the initial request? Parcels 5379 and 5842, a total of 987.14 acres, were requested to be rezoned on behalf of the Board of Commissioners, and parcels 5620, 65277, 66669, 65276, 5369, 5623, a total of 686 acres, were requested to be rezoned on behalf of the owner. Planning staff researched rezoning files for parcels 5814 and 5321

and it appears these parcels were zoned heavy industrial when zoning was initially applied in that area.

Questions provided by the Planning Board and answers from Staff (○) and Brendie Vega (■)

- For parcel 5814, the additional 24 acres requested for rezoning borders a stream and over half the property is in a flood zone, so why is this property a good candidate for rezoning to heavy industry?
  - The site was thought to have been fully zoned, we have only learned recently that the entire Moncure Holdings, marketed as Moncure Megasite, was not fully entitled as IH. The Rezoning case from 2018 includes a [Brochure](#) from 2017 that shows the parcels in the 2021 request being part of the Moncure Megasite. This request is not due to any new acquisitions or plans for expansion, the parcels have been identified as “[Moncure Megasite](#)” for some time.
  - While part of parcel 5814 that is being requested for a rezoning in a flood zone, the eastern portion of the remainder parcel may serve as the location for an interchange. This concept can be seen on the [2D marketing](#) material attached.
  - When site selection teams from a business or industry begin looking for a site for a location or relocation, one of the main criteria is to verify that the site has entitlements (appropriate zoning). While this site may not use the portion in question for anything other than infrastructure, it does not check the box for “appropriately zoned,” and it might not get a second look from interested parties, they will move on to another site. In order to allow all site selectors to check the box on this site, all of the property needs to be zoned IH.
- For parcel 5604, will the requested rezoning of parcel 5604 make it easier for parcel 67198 to be rezoned as a hazardous waste facility?
  - Parcel 67198 will need to go through a rezoning process. That would be up to the Board of Commissioners and Planning Board to review the application, if one were to be submitted, and to make a determination at that time.
  - There are currently no plans to request a rezoning for 67198. As you can see on [marketing materials](#) ([www.moncuremegasite.com/moncure-megasite](http://www.moncuremegasite.com/moncure-megasite)), it has not been under consideration. If it has been explored by other groups, we are not aware.
- For parcel 92884, how will the residential area be protected? Will there be an easement through residential properties, and if there is one existing, will it be abandoned?
  - With a general use rezoning, there is no site plan attached. Once the property is proposed to be developed, a site plan to include overall layout, landscaping, building elevations, lighting, parking, access, etc. will be required to be reviewed and approved before any permits are obtained. Any part of a project must be covered under the zoning that is needed. If

there is an agreement for an easement across residential property, this would need to be rezoned to the proper district.

- The public road shown to the north, would not be suitable for access to the site without significant improvements and ROW acquisition. The parcel under consideration, 92884, gives the adjacent IH sites (65277 & 5620) access to Christian Chapel Church Road. This access point is important as it provides multiple ways into the IH area and gives first responders better accessibility to the site. This additional access point also distributes trips that are generated to multiple entrances thereby decreasing the opportunity for a major shut down should one entrance need to be closed.
- For parcel 5321, there is a stream that would need to be crossed in order to access and develop the property, and this seems to be a natural border between residential/agricultural and heavy industry, so why is this rezoning needed?
  - When site selection teams from a business or industry begin looking for a site for a location or relocation, one of the main criteria is to verify that the site has entitlements (appropriate zoning). This site, connected to larger parcel 5814, does not check the box for “appropriately zoned,” and it might not get a second look from interested parties, they will move on to another site. In order to allow all site selectors to check the box on this site, all of the property needs to be zoned IH.
- Are there ongoing efforts to procure more land in that general area to be accompanied by requests for Heavy Industry rezoning, or will the owners be content to market this large acreage as is for the time being?
  - There are no ongoing efforts to procure more land in this general area by Moncure Holdings. As you can see from marketing material dated 2017/2018, these parcels were thought to have been rezoned to IH in previous rezoning cases.

**Recommendation:**

Review the request and provide a recommendation to the Board of Commissioners. The Watershed Protection and Planning Department staff will conduct further review of the SNIA provision, including the administration of any SNIA requests and analyze the applicability of buffer standards. It is expected that this review will produce an additional text amendment, but sufficient time was not available to offer such an amendment concurrent with the existing request. As the existing request makes no significant changes to current requirements but does provide a better map for future use, staff have no objection to the approval of the corrected map and language proposed by the applicant at this time.