



## Chatham County Planning Board Minutes April 6, 2021

The Chatham County Planning Board met in regular session on the above date as a remote meeting due to the current health restrictions for the COVID-19 virus. Members present via GoTo Webinar meeting were as follows:

### Present

Jon Spoon, Chair	George Lucier, Vice-Chair
Caroline Siverson	Jamie Hager
Allison Weakley	Emily Moose
Eric Andrews	Bill Arthur
James Fogleman	

### Absent

Clyde Frazier  
Dustin Mauldin

### Planning Department

Jason Sullivan, Planning Director, Angie Plummer Zoning Administrator, Janie Phelps, Zoning Official, Chance Mullis, Planner I, and Daniel Garrett, Clerk to the Planning Board.

### I. CALL TO ORDER:

Chair Spoon called the meeting to order at 6:30 p.m.

### II. VIRTUAL MEETING GUIDELINES:

Mr. Sullivan gave an overview of the virtual meeting guidelines provided by PowerPoint.

### III. DETERMINATION OF QUORUM:

Chair Spoon stated there is a quorum, 9 members present. Mr. Frazier and Mr. Mauldin were absent.

### IV. APPROVAL OF AGENDA:

Approval of the Agenda - Chair Spoon asked the board members if there were any issues with the Agenda. There were no objections, and the agenda was approved.

### V. APPROVAL OF THE MINUTES:

Consideration of the March 2, 2021 Planning Board minutes. Motion made by Vice-Chair Lucier to approve the minutes, second by Ms. Weakley and the March 2, 2021 minutes were approved 9-0, unanimous.

### VI. PUBLIC INPUT SESSION:

Chair Spoon asked that each citizen who wished to speak to raise their hand after the staff notes at each item. There were no citizens to speak on a topic not related to the agenda.

### VII. SUBDIVISION:

1. Sears Design Group, P. A. on behalf of Fitch Creations, Inc. for subdivision **Final Plat** review and approval of **Ferrington P. U. D., Section X, Area "D" – Forsyth**, consisting of 11 lots on 6.232 acres, located off SR-1813/East Camden and SR-1817/Millcroft parcel #18998.

Mr. Sullivan stated the request before the Board is for Final Plat approval of Fearington, Section X, Area "D", Phase Two, Forsyth. Forsyth received preliminary plat approval for 11 lots from the Board of County Commissioners on September 16, 2019. The roadways (Millcroft) in Area "D", Phase Two, Forsyth are proposed to be constructed as NCDOT public, state-maintained roads. The final plat request is being submitted with a request for a financial guarantee for the completion of required infrastructure. As of the submittal date, the engineer, Alan Keith, P.E., certified that the project was 51.4% complete and that the roadways are accessible to emergency vehicles. An updated cost letter may be submitted prior to final plat recordation. Staff recommends that the request for a financial guarantee be granted.

Fearington is subject to the 1994 Watershed Protection Ordinance which requires a 50-foot riparian buffer along perennial and intermittent water features not within 2500 feet of rivers. Ephemeral features were not required to be buffered. A 50-foot-wide perimeter buffer has been placed within the lots along the common boundary line of the adjoining properties of MRLD, LLC. The Technical Review Committee met on March 17, 2021 to review the request. There were no concerns from staff.

Mr. Sullivan stated in closing, the Planning Department recommends granting approval of the request for a financial guarantee and recommends granting approval of the request for final plat approval of Fearington Section X, Area "D", Forsyth as submitted with the following conditions:

1. The plat not be recorded until the county attorney has approved the contract and the form of the financial guarantee.
2. Prior to final plat recordation the engineer shall certify to the county that there is all weather access for emergency vehicles and the certification must be approved by the Fire Marshal.

Planning Board discussion on the above item:

- Vice-Chair Lucier asked what is allowed in the 50' perimeter buffer. Mr. Sears stated there is no construction allowed in the perimeter buffer and it stays wooded.
- Ms. Weakley confirmed that there are no streams present in this site. Mr. Sears stated correct, there are no streams in this phase.

Motion made by Mr. Arthur to approve this item, second by Vice-Chair Lucier. Chair Spoon completed a roll call vote and the motion to approve this item passed 9-0, unanimous.

2. Request by F-L Legacy Owner, LLC for subdivision Final Plat review and approval of **The Legacy at Jordan Lake – Phase 3**, consisting of 69 lots on 29.59 acres, located off SR-1716, Big Woods Road, parcels #89438 and #92463.

Mr. Sullivan stated the request before the Board is for final plat approval of The Legacy, Phase 3 consisting of 69 lots on 29.59 acres with a financial guarantee. Phase 3 received preliminary plat approval from the Board of Commissioners on January 21, 2020. The final plat conforms to the approved preliminary plat. The pre-2008 Subdivision Regulations allow a final plat to be submitted with a financial guarantee when a minimum of 40% of the total cost of improvement have been completed and when the public health and/or safety will not be endangered. Mitch Craig, PE, CE Group, submitted a cost letter with the final plat submittal certifying that 57% of the required infrastructure has been completed; that all roadways are private and will be constructed to NCDOT standards; and that the roadways are accessible to emergency vehicles. An updated cost letter may be submitted if additional work has been completed prior to recordation of the final plat to reduce the amount of

the financial guarantee. The county attorney will review and approve the form of the contract and financial guarantee.

The roadways in The Legacy at Jordan Lake are private and to be constructed to meet NCDOT's Standards and Specifications, but not reviewed or approved by NCDOT. A third-party testing agency has been retained to provide testing and certification. Those records will then be provided to the homeowner's association. Per Note 12 on the plat, maintenance of the private roads is the sole responsibility of The Legacy at Jordan Lake HOA, Inc. Per Note 13 the maintenance of all parks, common and meadow areas are the sole responsibility of The Legacy at Jordan Lake HOA, Inc.

The Haw River Cemetery is located on an adjacent property north of this phase and the final plat shows the cemetery on the cover sheet. The Technical Review Committee met on March 17, 2021 to review the request. Staff had no concerns. The conditions "Final plat 'Site Data' on sheets 2 and 3 shall show 69 residential lots and final plat will provide the third road name where High Woods Ridge and North Crest Drive intersect" have been met. The submittal meets the requirements of the Subdivision Regulations.

Mr. Sullivan stated in closing, the Planning Department recommends granting final plat approval of **The Legacy at Jordan Phase 3** with the following condition:

1. The county attorney shall review and approve the contract and financial guarantee prior to final plat recordation.
2. The final plat shall not be recorded until the engineer has certified that the roadway providing access to the parcels are accessible to emergency vehicles.

Planning Board discussion on the above item:

- Mr. Craig stated this final plat is the same as the approved preliminary plat and this is the last phase of the project.
- Mr. Andrews stated this subdivision has private roads and is gated, but should there be concern for connectivity for future projects? Mr. Sullivan stated in the subdivision regulations it addresses road connectivity when there are private roads and it can be offered, but the developer or ultimately the HOA control whether or not somebody can connect to their roads.
- Chair Spoon asked if there is an option for on-street parking or is each home going to have ample space for parking. Mr. Sullivan stated staff has not heard of any concerns from the fire department about on-street parking being an issue in this development, and that might be because of the lot sizes are bigger than what you would have at Briar Chapel and when staff has site visits to this development you notice very little on-street parking. Chair Spoon stated it looks like the average lot size in the phase seems larger than the rest of the project and only the residents using this traffic pattern. Mr. Craig stated yes that is correct.
- Ms. Weakley stated she was not present for the preliminary plat approval and would have voted against this phase for the primary reason that she has brought up every time Legacy brings a phase before the Planning Board is that all the streams drain directly to Jordan Lake. Stormwater treatment was voluntarily set to treat the first ½" of runoff and we frequently have storm events that exceed ½" and given that these streams are going directly into Jordan Lake these ponds are going to overflow a lot. Ms. Weakley has asked again and again for the developer to consider meeting current State standards which are treating the first 1" of runoff and it has never been agreed to. There is steep slopes with large

homes on small lots and there will be a lot of stormwater runoff. This development is also not subject to the steep slope standards in the Erosion Control Ordinance which gives further concern that during construction there will be problems. For these reasons Ms. Weakley cannot support the approval of this phase.

- Chair Spoon asked Mr. Sullivan if this is the last project with pre-2008 regulations. Mr. Sullivan stated other than the final phases of Fearrington Village and The Parks at Meadowview, but the sunset date on that development is rapidly approaching, so Fearrington Village will be the remaining pre-2008 development.
- Mr. Craig stated they moved the cul-de-sac back because of the steep slopes in that area and to address the concerns for the steep slopes.

Motion made by Vice-Chair Lucier to approve this item, second by Ms. Siverson. Chair Spoon completed a roll call vote and the motion to approve this item passed 5-4, opposed by Ms. Hager, Ms. Moose, Ms. Weakley, and Mr. Fogleman.

#### VIII. ZONING:

1. A Legislative public hearing for a general use rezoning request by Brendie Vega, on behalf of Moncure Holdings, LLC & Moncure Holdings West, LLC, to rezone in full or a portion of Parcel No's. 92884, 92883, 5604, 5620, 5321, 5814, and 92449, being approximately 249.036 acres total, from R-1 Residential, to IH Heavy Industrial, located off Old US 1, Pea Ridge Rd, Christian Chapel Church Rd, and Moncure Flatwood Rd., Cape Fear Township.

Ms. Phelps stated When considering a general use rezoning, all uses listed in Section 10.13 of the Chatham County Zoning Ordinance listed under the proposed zoning classification are permitted. However, due to possible limiting situations such as wastewater capacity, access to public utilities, impervious surface limits, etc., not all uses are feasible. The decision to approve a general use rezoning shall be determined by the following criteria.

1. **Any alleged error in the Ordinance, if any, which would be remedied by the proposed amendment.**  
The applicant is not claiming any error in the ordinance. **It is the planning staff opinion that this standard has been met.**
2. **The changed or changing conditions, if any, which make the proposed rezoning reasonably necessary.** The rezoning request is to bring the remainder of the properties controlled by the applicants into the same entitlements and zoning classifications as the existing neighboring similar use in proximity to the subject site. This will give Chatham County an opportunity to diversify its heavily agriculture-based economy and workforce to include a major employment center where a skilled workforce can blossom.

The properties are included, or are in close proximity, to multiple Employment Center nodes on the Comprehensive Land Use Plan, as well as existing IND-H, Heavy Industrial zoning districts. The amount of land of the properties surrounding the rezoning request are about even between R1, Residential, and IND-H, Heavy Industrial. **It is the planning staff opinion that this standard is met.**

**3. The manner in which the proposed rezoning will carry out the intent and purpose of the adopted Land Use Plan or part thereof. You must note specifics from the plan/s giving reference to page number and section.** The applicant states that by rezoning these properties to IND-H, Heavy Industrial, an influx of employment opportunities will enable residents to live and work in the County rather than commute to surrounding metropolitan areas. Objectives 4-7 and 10 of the Comprehensive Land Use Plan are proposed to be met. These are:

- Diversify the tax base and generate more high-quality, in-county jobs to reduce dependence on residential property taxes, create economic opportunity and reduce out-commuting (Objective 4).
- Conserve natural resources (Objective 5).
- Provide recreational opportunities and access to open space (Objective 6).
- Provide infrastructure to support desired development and support economic and environmental objectives (Objective 7).
- Foster a healthy community (Objective 10).

These properties are within, or within close proximity to the Employment Center identified on the Comprehensive Land Use Plan Map.

Several sections and policies of the Comprehensive Land Use Plan are referenced that support the rezoning request:

- Economic Development
  - Policy 2: Encourage growth in designated Employment Centers, towns, and other appropriate locations.\*
  - Policy 3: Continue to develop and promote the Chatham-Siler City Advanced Manufacturing (CAM) Site and the Moncure megasites to ensure future job creation in the County.\*
  - Policy 5: Strengthen Chatham EDC's capacity to carry out business retention, recruitment, workforce development, and data gathering and dissemination activities.
- Land Use
  - Policy 4: Support future transit through land use decisions.
  - Policy 5: New development should demonstrate design principles that preserve rural and small-town character.
  - Policy 12: Work toward an open (clear/concise) and cooperative approach to land use planning and regulation.
- Natural Resources
  - Policy 1: Ensure the long-term quality of water resources.
  - Policy 2: Protect and improve site level green infrastructure.
- Parks and Recreation
  - Policy 2: Address recreational and open space priorities through planning efforts.
  - Policy 3: Increase the number and mileage of trails and greenways. **It is the planning staff opinion that this finding is met.**

**4. List all other circumstances, factors, and reason which the applicant offers in support of the proposed amendment.** There is no proposed tenant with this request, but once a developer is interested, all regulations will be followed in accordance with what is required. The applicant states that when the site is to be developed that Sections 10, 12, 13, and 15, along with any other applicable regulations, will be met.

The properties are within RCSA and WS-IV PA watersheds. There is another item from the applicant for a text amendment to the Watershed Protection Ordinance, which is being reviewed by the WRB/ERAC committee. That amendment is to revise the boundary of the area where the 10/70 rule can apply to the Moncure Megasite properties. The 10/70 option was approved by the Board of Commissioners for the Moncure Megasite in October 2016. **It is the planning staff opinion this finding will be met.**

- 5. All other information required on this application or as offered by the applicant in support of the request.** Future development will coordinate with the Public Works Department in order to ensure appropriate water connections are planned and provided. The site will be served by the Regional Airport Sewer Extension Project that is currently under construction. It is anticipated that this sewer connection will provide sufficient service to the site, and permits are in place allowing the discharge of up to 244 thousand gallons per day. Due to the size of the megasite, there will be a variety of internal road improvements through and between the subject parcels. Stormwater and erosion control will be controlled in accordance with the Watershed Protection Ordinance. A 100-foot minimum vegetative setback on both sides of perennial streams and Best Management Practices will be incorporated to minimize water quality impacts. **It is the planning staff opinion this finding will be met.**

**Based on all standards being met, or will be met, it is the opinion of the planning staff the request for general use rezoning be recommended for approval.**

The Planning Board, by unanimous vote, tabled the discussion to the April 6, 2021 meeting to receive answers to questions and hear what the ERAC/WRB Board has for 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.

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

- 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 \(www.moncuremegasite.com/moncure-megasite\)](#), 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.

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 applicants stated they would adhere to the required vegetation and revegetation standards as set forth in the Watershed Ordinance along any required stream buffers. The buffer requirements will not change during the development of the properties. The applicants are not increasing the overall allowance for the 10/70 rule but instead are wanting to create an overlay district that would include all their properties.

The WRB have concerns over stream buffers that would only be triggered if any subdivision of land were requested. At present, the Watershed Ordinance would only require the 100-foot buffer along perennial streams and not the 50 foot on intermittent and 30 foot on wetlands. The applicant and landowner stated they intend to subdivide the 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, all required buffers would be put into place.

The WRB also expressed concerns on whether the properties outside of the Mega Site 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.

There is a portion of property located in the RCSA (River Corridor Special Area) Watershed (Parcel 5814). 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 WRB felt they needed more information and want to see what the Planning Board has to say, along with the answers to questions from the meeting held on March 2, 2021.

The Planning Board has up to three meetings (two meetings remain) in which to make a recommendation to the Board of Commissioners on whether to recommend approval or denial of the rezoning request.

Ms. Phelps stated in closing, should the recommendation be for approval, a consistency statement has been provided below for consideration.

**The rezoning in whole, or portions, of Parcels 5321, 5604, 5620, 5814, 92449, 92883, and 92884 is consistent with the Comprehensive Land Use Plan of Chatham County by encouraging growth in designated Employment Centers, towns, and other appropriate locations (page 55). This request is also supported by continuing to develop and promote the Chatham-Siler City Advanced Manufacturing (CAM) Site and the Moncure Megasites to ensure future job creation in the County (page 55).**

- Mr. Nick Robinson stated he is here tonight on behalf of Moncure Holdings, LLC to form the zoning map to match up with the Moncure Megasite project. The Moncure Holdings team is on this webinar meeting as well and are assembled to help address any lingering questions that are associated with the zoning application. Ms. Phelps has done a great job summarizing the request and what has led up to this point procedurally from the first meeting to this meeting. Mr. Robinson reminded everyone that the Planning staff has thoroughly reviewed the application and after researching and summarizing all the



findings made necessary by the Zoning Ordinance the Planning staff has recommended approval of the rezoning. Ms. Phelps addressed the questions that were raised by the Planning Board members from last meeting and the group that is assembled tonight is here to answer any follow up questions.

Mr. Robinson stated last Planning Board meeting was also tabled to see how the Watershed Review Board would address the parallel request for the text amendment to the Watershed Ordinance. The Watershed Review Board tabled their meeting as well to review some items. There is also an e-mail from the Watershed Protection Director Ms. Thorn to help bring everyone up to date on the direction things are headed for the Watershed Review Board. Mr. Robinson read a portion of the e-mail from Ms. Thorn, "supports the amendment in that the main element of the proposed change is the map overlay which has clear advantages over the existing mapped area." It is also mentioned in her e-mail that there are additional items that the Watershed Review Board and Watershed Protection department will want to review in the future after the text amendment is hopefully approved. Those items are how to administrate these special intensity allocations and 10/70 rule allocations. The Watershed Review Board next meeting is April 8<sup>th</sup> at which we will seek and hope to obtain an affirmative recommendation from the Watershed Review Board to send it to the BOC.

Mr. Robinson stated there was a letter received today, jointly signed by the president and project manager of the Chatham Economic Development Corporation which encourages a recommendation for approval and refers to this rezoning request as "extremely important item to address". Mr. Robinson asked to read the letter into the record. Chair Spoon said it was okay to read the letter.

"Chatham County Planning Board,

Due to previous obligations, we will not be able to attend tonight's (Tuesday, April 6th, 2021) Planning Board meeting to speak on the Moncure Holdings rezoning agenda item. We would like to add some additional comments to add context as the planning board makes their decision. As the WithersRavenel Team has pointed out, the motive for this rezoning stemmed from an effort to tie up loose ends with the due diligence of the site. Previously, the idea of the megasite development was to wait for one large user to come in and take the entire megasite property. While that may still happen, there has been a strategic shift to break up the existing megasite and market the property as a park that houses various sized tenants.

With that shift, the more minor details such as the congruent zoning across all parcels being proposed tonight becomes more important. With smaller projects, each parcel goes under the microscope since the company is only looking at a smaller portion. Having a parcel with split zoning can cause a misunderstanding or put the park in a negative light to site selection consultants, company executives, and those who are making location decisions that the site is not viable for their project. There is a multitude of factors that go into a site selection decision such as the size of the site, utility requirements, construction timelines, workforce, zoning, and many others. As a partner in developing this site for community benefit of Chatham County, we want to check off as many of those boxes as we can to make the site as appealing as possible. Having the congruent zoning will help us with that.

This is an extremely important item to address, especially in the current market. The Raleigh-Durham metro, which the megasite is a part of, has seen a dramatic uptick in project activity over the past 6-9 months. Chatham County and the Research Triangle Region continues to draw national interest from businesses and residents, and this request will be another step towards preparing the site for industrial development that would reduce the tax burden on Chatham County residents. We are excited about the jobs, investment, and tax base this project will bring once developed to our community and ask your support of this rezoning as we tie up this "loose-end" to help us do that. Thank you for your time and have a great night.  
Sincerely, Michael Smith, President and Sam Rauf, Project Manager."

- Mr. Robinson said we are here to answer any questions that the Board may have and request that in the end tonight you will vote to recommend approval of the requested rezoning request for the benefit for the county as a whole.

Planning Board discussion on the above item:

- Chair Spoon stated we do have three meetings to discuss this item, we saw this for the first time last month and we had an opportunity to provide questions to the developer and they provided thorough responses to our questions, so as we discuss this item tonight, Chair Spoon would like to move towards having a vote this evening and if there is an absolutely compelling reason a Board member feels they need to table it and receive more information in the next month then we will hear that, but if we are able it would be good to have a vote tonight.
- Vice-Chair Lucier stated some of his questions were edited that were submitted so they were not exactly what was submitted and one of the most important omissions deleted was to see what the different streams on the property, are they perennial or intermittent, and this can be important because unless the properties are subdivided then the only stream protection are on the perennial streams, not the intermittent streams. It would be important to see that, and that request was in the material submitted to Planning staff for a response. One of the questions was for parcel 5321, an isolated lot, and the area west of the stream has a floodplain, this part of the parcel is landlocked without crossing the stream and the floodplain. Ms. Phelps stated there was a lot of language submitted for the applicant and she shortened the question a little bit and did not realize there was a request to see the stream delineation within the request. Chair Spoon stated going forward it is good practice as Board members when we submit questions, rather than in the body of an e-mail we specifically draw out each question and use the words exactly as we want to ask, and on the staff side if we could make sure we get that exact wording to applicants in the future.
- Chair Spoon asked if there has been any stream delineation map produced and is that something that is available at this point. Mr. Ashness stated there has been a consultant that has looked at the vast majority of the property and had done mapping, at this point not everything has been reviewed by agencies, it has been more for the benefit of our client. Specific to parcel 5321 there is a significant floodplain that crosses that area, but parcels 5321 and 5814 has a specific project that you will see the earliest subdivision activity. Mr. Robinson mentioned it and so did Ms. Vega in her responses, all of these parcels are absolutely going to be subdivided. During the subdivision phase all of the buffer requirements come into play and ultimately there is another phase after that which involves site plans, so it is premature at this point to have that information. Once all of that work is done, we will be coming in and start subdividing these parcels out and all of those concerns will play out at that time. Right now, there are no plans for the floodplain side of 5321 because of the perennial stream crossing and floodplain, but that is not to say 10 to 15 years from now there may be other parcels assembled. Vice-Chair Lucier stated that is good to hear that there will not be an impact on that perennial stream.
- Vice-Chair Lucier stated his question on 92884 has been resolved because that road connects to multiple properties and there would be no reason for them to travel through residential areas. Mr. Robinson stated that is accurate.
- Vice-Chair Lucier asked about parcel 5604, everything is contiguous on this map, but this parcel is isolated, why? Also, parcel 67198 is the parcel in between and is that the parcel that was originally proposed many years ago as a low-level radioactive waste dump for the southeast. Does anyone on Planning staff know about that information? Mr. Sullivan stated that pre dates all the employees on the Planning staff and there are some files on that. The Commissioners at the time created a separate ordinance for low level radioactive and hazardous waste, but not sure if it was this specific parcel 67198

or a different property. Vice-Chair Lucier stated he is pretty sure it was that property, but not 100% sure. It is not relevant to our discussion tonight because there would be a process for getting something like that approved at that site, but it would connect to the bulk of the heavy industry property.

Mr. Robinson pointed out parcel 5604 on the screen for the Planning Board and stated this parcel is disconnected, not contiguous with the other parcels. The arc of the northwestern boundary of this parcel runs along the railway and that is rail access all the way along that boundary and is very important to the Moncure Megasite for the ability to deliver on the heavy industrial promise is having that rail access there. Mr. Robinson also showed the Planning Board a parcel immediately to the north that was supposed to be part of this project, but there were some title issues preventing it. Then the next parcel is owned by Moncure Holdings, so the original plan was to have all three parcels together including 5604 for rail access to the mega site. Vice-Chair Lucier stated that is helpful and understood to have the railway access.

- Mr. Arthur stated that Mr. Ashness said all these parcels are going to be subdivided, but there is also talk about one large company coming in to use the mega site, so if one large company does come in, what do you subdivide? Mr. Sullivan stated the way the riparian buffer standards work is if there is any division of property, regardless of the size, then the current riparian buffer standards are applied. If a single existing track of land is sold as is and there is no further division then it would not trigger the current riparian buffer standards, but as a marketing standpoint it is not clear if a property would be sold like that. Mr. Arthur asked how much control you would lose if it were not subdivided. Mr. Sullivan stated if it is not subdivided then it defaults back to the pre-2008 riparian buffer standards. There would be a 100' buffer on all perennial streams because of the 10/70 rule through the Watershed Regulations.

Mr. Ashness stated he is not sure there is a scenario where any one entity would take this mega site as a whole. What we have found is there is a tremendous amount of appetite for companies that want 10-to-15-acre parcels and put 240,000 sqft of building down with parking and stormwater devices, that is really the meat of the market right now, someone could come in and take 300-to-400-acre portion, but there are only a few folks that would do that. The vast majority of the users looking for parcels all over the country and even outside of the country are looking for a 10-to-15-acre track. This is why we are here in front of the Board tonight and why the project has been re-titled and re-vamped to address those issues.

- Ms. Hager asked why parcel 92449 is ideal for rezoning? Mr. Robinson stated if you look at this parcel, it has rail access as well along the same railway as 5604 does and it is also connected contiguously to 5604 to the southeast of that parcel which leads down into the rest of the project. There is connection to the rail and then all the way down to the rest of the project.
- Ms. Weakley stated her concerns at the last meeting, and they have been highlighted again tonight with the number of streams and wetlands that are on the site. In the promotional brochure provided it states, "due diligence has been performed", including wetlands and probably stream delineations and that information is key for me to decide on this item. It was stated by Mr. Ashness that all the parcels will be subdivided, but I do not think that can be guaranteed. Some parcels like 92449 has 50 acres, 5604 is about 50 acres, some parcels are 23 acres, it is very possible for somebody to develop that site and not subdivide it and therefore the stream buffer would not apply. The GIS viewer on the screen right now you can see the USGS blue line streams, but what you do not see are the soil survey streams that are shown on the Chatham County Soil Survey. If we pull up the Conservation Map Viewer you will see there are a number of streams that are not showing on the Land Viewer Map and if those were intermittent streams, they would get no buffers, unless the property was subdivided. That is very significant with all the streams located on this site.

Ms. Weakley stated parcel 5620 is connecting what is currently zoned heavy industrial 92449 and it seems to be an access point and Mr. Robinson even stated from the railroad into the rest of the mega site. If you look at the Conservation Viewer there is an area that is labeled "ChA" this is hydric soils the length of that parcel. Any access that comes from the railroad through 92449 is basically passing and crossing a lot of streams, depending on if there are perennial or intermittent or whether or not the property gets subdivided, there are a lot of questions to what buffers might or might not apply to those streams and is concerned about that. Mr. Ashness stated Chatham county has a very good mapping tool that shows what is out there and because of Ms. Weakley's professional background understands what these streams have, but it is very common to have railroad stride and cross over streams in a perpendicular fashion just like there would be anywhere else in the county. Given that we are doing a general rezoning and there are not definitive users at this time it is paramount for us to keep the parcels assembled and zoned properly. There will be a subdivision phase and a specific site plan phase where things like stormwater and buffering will have to come into play as a result of that.

- Ms. Weakley asked staff about recombination of parcels does not trigger the current stream buffer rules it is only the subdivision. Mr. Sullivan stated that is correct. Ms. Weakley stated the buffers would only apply if the parcels were subdivided. On parcel 5620 with all the streams on that parcel alone, small amount of acreage that is developable. Ms. Weakley feels this parcel would be used for road and utility infrastructure, it is not likely someone would subdivide that lot because there is not a lot of usable land on the lot outside of the streams and floodplain.
- Chair Spoon stated we definitely hear Ms. Weakley's concerns on the creeks and water features, and it sounds like the kind of specificity with regards to stream mapping that would give you piece of mind that would not happen in the next month. Chair Spoon stated he would like to protect all the creeks as well, but he also is really concerned about the tax base in Chatham County and in the long term our ability to protect creeks anywhere is going to depend on us having a tax base that provides us with enough resources to do that, at this point residential taxes do not even pay for themselves. We have done a good job with our Comprehensive Plan and we identified a small percentage of the county where we see heavy industrial operations feasibly going and these are all parcels that are triangulated into one of those areas and they have the road and rail features. Railway is very important because any economic development that does not add traffic to the roads is fantastic. Chair Spoon stated he is supportive of this general rezoning project for the reasons the EDC stated, and we do need the tax balance and with this many parcels going for heavy industrial to have virtually no citizen concerns.
- Ms. Siverson stated that are 1670 acres that are already zoned heavy industrial and quite a bit of it is along the railroad. Also, a lot of this land is in forestry use and agriculture land is a gain for the county. There are several of these parcels with residential dwellings very close by and the way some of these parcels will be configured it seems like those residents will be impacted by an industrial use. That and the fact there is so much uncertainty about how it will be subdivided, or will it be subdivided, and with all of the streams. Ms. Siverson is not going to be able to support this rezoning especially if we vote on them as a whole.
- Ms. Hager asked Ms. Siverson if there were parcels that she would support if the Board voted on them separately. Ms. Siverson stated the only parcel that does not have any adjacent residents is 92883, all the other parcels have either streams or adjacent residents and with the general rezoning there is not any control once it is done, but with a special use permit we can look at it much closer and protect the adjacent land owners.
- Chair Spoon stated he appreciates those arguments, but we have heard from the EDC and they need that level of flexibility in order to sell these projects and there are an inventory of projects ready to go

and we are basically taking Chatham County off the list by not providing that flexibility.

- Ms. Weakley agrees with Ms. Siverson and also noted from the previous meeting about her concern for scope creep, the full unzone parcels are R1 and are near an employment center, but not in an employment center. We just passed our Land Use Plan, and this was considered very recently what those areas were, so this is another reason Ms. Weakley cannot support this rezoning.
- Vice-Chair Lucier stated with as cumbersome as this rezoning is to vote on each parcel separately. Each parcel has its own merits and issues with substantial acreage and deserve an individual vote for each parcel. Chair Spoon stated he would like to check with the applicant to see if that would be a process they would consider or have the Board vote on the parcels as a whole. Mr. Robinson stated it has been presented as a whole and asked if someone on the Moncure Holdings team had a preference. Mr. Robinson also stated the Planning Board is an advisory board and are making recommendations and the decision of the Planning Board is not a final decision subject to the legal parameters whether or not the decision is appropriate to what was requested, it is conservable the Planning Board can make a recommendation however you want to make it.

Chair Spoon stated if there is not a strong objection to separating the parcels and voting on them individually it seems like that would be the preference to some of the Board members.

- Mr. Robinson asked the Planning Board members to keep in mind that they are also in a process of amending the zoning map and the zoning ordinance has specific items that supposed to be addressed either found or not found in order to support the amendment and those items are listed out by the Planning staff. First, any alleged error in the Ordinance, if any, which would be remedied by the proposed amendment. The planning staff opinion that this standard has been met. Second, changed or changing conditions, if any, which make the proposed rezoning reasonably necessary. Many changed or changing conditions having to do with the mega site has been offered and what is being requested is really just making the zoning map match what we all know the county has already invested a lot in which is the size and shape of the mega site. The planning staff agrees that this finding has been met. Third finding, the manner in which the proposed rezoning will carry out the intent and purpose of the adopted Land Use Plan and there is ample evidence of that has been submitted with the application including very specific references to all of the objectives in the Comprehensive Land Use Plan. This is all laid out by the Planning staff and they agree this finding has been met. Fourth, list all other circumstances, factors, and reason which the applicant offers in support of the proposed amendment, which has been numerous, connecting to the railway, making it function and to match the marketing material so that we do not get ruled out at first glance by potential suiters. The fifth finding, all other information required on this application or as offered by the applicant in support of the request. The Planning staff agrees that all five of these findings have been met. The Planning Board can make their recommendation, but it should be tethered, if this process has meaning, to those findings you are to review into making a decision.
- Ms. Weakley stated in the Land Use Plan under Natural Resources, recommendation number one is to maintain and improve water quality with a number of strategies which to do that. Number two is to preserve site and landscape level concentration and connection of green infrastructure. Number three is, encourage conservation design in and near conservation and protected areas and in rural areas. One of the primary goals is to preserve natural resources and secondary goal is to preserve the rural character and lifestyle of Chatham County and another secondary goal is to preserve, protect, and enable agriculture and forestry, also provide recreational opportunities and access to open space. Mr. Robinson responded by saying, there are multiple places in the Comprehensive Land Use Plan in which the mega site are specifically mentioned, not generally, but specifically mentioned and in which

there are action items related specifically to promoting mega sites to the manner in which they have been proved and marketed by the county. Mr. Robinson said Ms. Weakley is correct, there are some references in the Comprehensive Land Use Plan that you can look at, but the specific references to the mega site are the ones that are most applicable and pertinent, and this rezoning fulfills those. Ms. Weakley stated in the application information it is included to preserve natural resources as supporting finding number three and she was just pointing out what that section said and to truly carry out the intent of purpose of the Land Use Plan in terms on conserving natural resources, the number one recommendation is to protect and improve water quality. Pointing back to the number of streams and wetlands on this site and the uncertainty about how they will be buffered once this is developed.

- Chair Spoon asked Mr. Robinson if he had heard back from the team about separating the parcels to vote on them individually. Mr. Robinson stated if it is voted parcel by parcel then we might end up with non-contiguous zoning, which we do not want, and is completely inconsistent with the whole idea behind cleaning up these zoning maps to match the intent of the entire mega site. Might put the BOC in an awkward position if the vote is not up or down on the whole thing. Mr. Robinson can understand if there were adjoining property owners that were objecting for certain parcels, but we really do not have that there is nobody from the surrounding public that is objecting to rezoning of any of the parcels. We have a Planning staff that is fully supportive of rezoning all of the parcels and we have a process after rezoning that will naturally protect the issues of concern that Ms. Siverson and others raised. There will be a whole site planning process and US Army Corps of Engineers impact process to make sure that all those rules are followed in the ultimate development of everything. Chatham County and the Golden Leaf Foundation spent a large amount of money bringing sewer to the site.
- Mr. Jason Kaplan stated the BOC approved a 12-mile sewer line that cost the county, the Golden Leaf Foundation, and the city of Sandford 16.5 million dollars with this plan in place and it was an oversight that the zoning had not been check boxed and everyone had thought it had been. They have just approved additional sewer infrastructure with the thought that sewer is really meant to protect water quality and natural resources.
- There was some Board discussion about how to proceed with the vote. Should it be voted on as one whole rezoning or should each parcel be voted on separately. The Planning Board took a vote on which way to proceed, and it was voted to separate each parcel out and vote on them individually, 5-4.

### **Parcel 5321**

- Chair Spoon stated this parcel is currently split zoned and rezoning would be making it all zoned the same. Vice-Chair Lucier stated this is the parcel that is separated by Shaddox Creek and the west side is zoned residential. It was also stated by Mr. Ashness that there are no plans to develop on the other side of Shaddox Creek and the subdivision would occur to the west of the creek. There is no other road access to the other side of that parcel unless you cross the creek and the floodplain. Ms. Hager stated all of the parcels that are split zoned she will be in favor of rezoning them because that is really a clear issue as to why we are not getting people to the table.

Motion made by Mr. Arthur to approve this parcel in accordance with staff recommendation, second by Chair Spoon. Chair Spoon completed a roll call vote, and this item did not pass 4-5, opposed by Vice-Chair Lucier, Ms. Siverson, Ms. Weakley, Ms. Moose, and Mr. Fogleman.

#### **Parcel 5604**

- Chair Spoon stated this parcel has railroad access with the parcel above it with the title issue, that would have otherwise been part of the rezoning plan and Moncure Holdings owns the parcel up to the right of that. Chair Spoon asked if there were any specific issues with this parcel a Board member would like to address. There were no remarks.

Motion made by Mr. Arthur to approve this parcel in accordance with staff recommendation, second by Mr. Andrews. Chair Spoon completed a roll call vote, and this item passed 6-3, opposed by Ms. Siverson, Ms. Weakley, Ms. Moose.

#### **Parcel 5620**

- Chair Spoon stated this parcel could potentially provide railroad access that would need to cross a stream and is completely surrounded by heavy industrial uses at this point. Chair Spoon asked if there were any specific issues with this parcel a Board member would like to address.
- Ms. Weakley wanted to point out her earlier concerns for this parcel, lots of streams and if it is primarily being used for infrastructure and utilities there will be a lot of impact. Vice-Chair Lucier asked about the zoning of adjoining parcels and it was determined that the parcels to the east and west are zoned R1.

Motion made by Mr. Arthur to approve this parcel in accordance with staff recommendation, second by Ms. Hager. Chair Spoon completed a roll call vote, and this item did not pass 4-5, opposed by Vice-Chair Lucier, Ms. Siverson, Ms. Weakley, Ms. Moose, and Mr. Fogleman.

#### **Parcel 5814**

- Chair Spoon asked if there were any specific issues with this parcel a Board member would like to address. There were no remarks.

Motion made by Mr. Fogleman to approve this parcel in accordance with staff recommendation, second by Mr. Arthur. Chair Spoon completed a roll call vote and this item passed 6-3, opposed by Ms. Siverson, Ms. Weakley, Ms. Moose.

#### **Parcel 92449**

- Chair Spoon stated this parcel also has railroad access and surrounded by heavy industrial. Asked if there were any specific issues with this parcel a Board member would like to address. There were no remarks.

Motion made by Vice-Chair Lucier to approve this parcel in accordance with staff recommendation, second by Mr. Fogleman. Chair Spoon completed a roll call vote and this item passed 6-3, opposed by Ms. Siverson, Ms. Weakley, Ms. Moose.

#### **Parcel 92883**

- Chair Spoon this parcel is zoned R1 with two road access and had heavy industrial to the west of it. Asked if there were any specific issues with this parcel a Board member would like to address. There were no remarks.

- There was some discussion about the parcel owned by Duke Energy near this proposed parcel and if they use that land for conservation. Mr. Sullivan stated he believes that property is identified game land and why it has the designation of recreation and parks in the Comprehensive Plan.

Motion made by Ms. Hager to approve this parcel in accordance with staff recommendation, second by Mr. Fogleman. Chair Spoon completed a roll call vote and this item passed 7-2, opposed by Ms. Weakley and Mr. Fogleman.

**Parcel 92884**

- Chair Spoon stated this parcel has residential north and south and has access to a road. Asked if there were any specific issues with this parcel a Board member would like to address. There were no remarks.

Motion made by Mr. Arthur to approve this parcel in accordance with staff recommendation, second by Mr. Fogleman. Chair Spoon completed a roll call vote and this item passed 5-4, opposed by Ms. Siverson, Ms. Weakley, Ms. Moose, and Mr. Fogleman.

- Chair Spoon now proposed the Planning Board vote on the consistency statement for the approved parcels; 5604, 5814, 92449, 92883, and 92884.

Motion made by Vice-Chair Lucier to approve the consistency statement for the following approved rezoning parcels; 5604, 5814, 92449, 92883, and 92884 is consistent with the Comprehensive Land Use Plan of Chatham County by encouraging growth in designated Employment Centers, towns, and other appropriate locations (page 55). This request is also supported by continuing to develop and promote the Chatham-Siler City Advanced Manufacturing (CAM) Site and the Moncure Megasites to ensure future job creation in the County (page 55). Motion second by Mr. Arthur. Chair Spoon completed a roll call vote and the consistency statement passed 6-3, opposed by Ms. Siverson, Ms. Weakley, and Ms. Moose.

- It was discussed to vote on an inconsistency statement for the two parcels that were denied 5321 and 5620.

Motion made by Ms. Weakley to approve the inconsistency statement for the following denied rezoning parcels; 5321, and 5620 is not consistent with the Comprehensive Land Use Plan of Chatham County. This rezoning is not consistent with the Comprehensive Land Use Plan because heavy industry is inappropriate for parcels 5321 and 5620 because of the inadequate protection of natural resources. Motion second by Mr. Fogleman. Chair Spoon completed a roll call vote and the inconsistency statement passed 5-4, opposed by Chair Spoon, Ms. Hager, Mr. Arthur, and Mr. Andrews.

- Chair Spoon encouraged the Planning Board members to raise their concerns to the Board of Commissions by providing them to Planning staff so they can place them in the notes for the BOC meeting. Mr. Sullivan asked that the Planning Board members get their comments to staff by April 21<sup>st</sup>.

**IX. NEW BUSINESS:**



X. BOARD MEMBERS ITEMS:

Update from the Planning Board liaisons.

- Vice-Chair Lucier stated he did not attend the Pittsboro Planning Board meeting. He did attend the ERAC/WRB meeting which had the Moncure Megasite watershed text amendment. That item was tabled as well because they wanted to hear what the Planning Board was doing with the rezoning. Their next meeting is April 8<sup>th</sup>.
- Ms. Siverson stated she did not attend the Siler City Planning Board meeting, but they are still worked on amending their UDO. The well subcommittee is starting to wrap up and had a well driller speak at the last meeting and was very interesting. Next meeting will have the County Attorney to speak legality and then hopefully there will be a report to the Planning Board.
- Ms. Moose stated the Agriculture Advisory Board discussed the voluntary agriculture district applications and a letter to present use value land owners. They also discussed the RFP for feasibility study on the phase 2 development CCACC. An expanded budget request for farm land preservation plan and cost of community services. They also worked on celebrating cattle in Chatham county.
- Ms. Weakley stated the Chatham Conservation Partnership next meeting will be April 15<sup>th</sup> at 9am as a virtual meeting and the topic will be Dragonflies and Damselflies. The link to the meeting was sent out to Planning Board members and Planning staff.

XI. PLANNING DIRECTOR'S REPORTS:

Mr. Sullivan reported on the following:

1. Minor Subdivision spreadsheet
2. UDO Update

XII. ADJOURNMENT:

There being no further business, the meeting adjourned at 8:45 p.m.

Signed: \_\_\_\_\_ / \_\_\_\_\_

Jon Spoon, Chair

Date

Attest: \_\_\_\_\_ / \_\_\_\_\_

Dan Garrett, Clerk to the Board

Date