



## Chatham County Planning Board Minutes December 6, 2022

The Chatham County Planning Board met in regular session on the above date and the meeting were as follows:

### Present

George Lucier, Chair  
Caroline Siverson  
Clyde Frazier  
Alex West  
James Fogleman

Jon Spoon, Vice Chair  
Eric Andrews  
Allison Weakley  
Bill Arthur

### Absent

Jamie Hager

### Planning Department

Jason Sullivan, Director, Angela Plummer, Zoning Administrator, Kimberly Tyson, Subdivision Administrator, Dorian McLean, Zoning Official, and Dan Garrett, Clerk to the Planning Board.

#### I. CALL TO ORDER:

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

#### II. DETERMINATION OF QUORUM:

Chair Lucier stated there was a quorum, 9 members present, Mr. Frazier entered the meeting at 6:45 and Ms. Hager was absent.

#### III. APPROVAL OF AGENDA:

Approval of the Agenda – Chair Lucier asked the board members if they were okay with the agenda. Motion to approve by Ms. Weakley, second by Mr. Arthur. The agenda was approved, 8-0, unanimously.

#### IV. APPROVAL OF THE MINUTES:

Consideration of the November 1, 2022, meeting minutes. Motion by Mr. West and second by Ms. Siverson. The November 1, 2022, minutes were approved 7-0, Mr. Arthur did not vote because he was absent from the November meeting.

#### V. APPROVAL OF THE 2023 MEETING CALENDAR:

Consideration of the 2023 Planning Board meeting calendar. There were no issues with the prepared meeting dates and location. Motion to approve by Vice-Chair Spoon and second by Mr. Fogleman. The 2023 meeting calendar was approved 9-0, unanimously.

#### VI. PUBLIC INPUT SESSION:

There were no residents signed up to speak.

## VII. SUBDIVISION ITEM:

1. Request by Warren Mitchell on behalf of Morgan Ridge Partners, LLC for six (6) months extension of first plat to extend the current first plat expiration date for Morgan Ridge Conservation Subdivision Phase 2 from January 12, 2023 to June 30, 2023, consisting of 36 lots, located off Jones Ferry Road, S. R. 1942, parcels #1435 and #69883.

Ms. Tyson stated the previous deadline for submission of the construction plan was November 18, 2020. The original expiration date, November 18, 2020, was extended by the adoption of Senate Bill 704, adopted by the General Assembly, and approved by the Governor in response to COVID-19 crisis, until January 12, 2023. The request before the Board is for a six-month extension of first plat to extend the first plat expiration date from January 12, 2023, to June 30, 2023. The developer, Morgan Ridge Partners, LLC, has stated in the extension request letter, the reason for the extension request is based on a state permit needed for the community well system. The applicant expresses in the letter dated October 17, 2022, engineering for the water system has begun and plans to submit to the Division of Water Quality by November 1, 2022. The applicant believes the state permit needed for the water system will be complete in a few weeks and will not take the full 6-months extension request. With the holidays approaching, the applicant did not want to risk not having the needed state permit for the community well. The applicant also states, "The reason why we don't have the State permit for the water system today is due to delays associated with getting the public well-constructed." The Planning Department does not make recommendations on extension requests as this is a policy decision for the Board of County Commissioners.

### Board Discussion:

- Mr. Mitchell stated all of the permits were received in 2021 with the exception of the erosion control permit which was issued in February. Since February we have had every permit except for the community well, it has been extremely tough, and we did not realize everything that is involved with the community well process. We have submitted for the community well permit in September and we might get it by the end of this month or in January, we are seeking an extension just in case it takes longer around the holidays. Chair Lucier stated the original approval of this project came before this Board had modified the Conservation Subdivision regulations, and a letter was provided by you, and could you summarize how this development had already fulfilled or not fulfilled the new requirements that were passed by the BOC.

Mr. Mitchell stated the streams and buffers, we are providing over 51% conservation land, so even if we take out all of the streams and buffer calculations from the project, we are still over the 40% minimum natural space, which meets the new regulations. When we initially submitted this project the Natural Heritage Program did not look at this property, and it was suggested by the Planning Board to have them come out and walk the property. They have since been out to the property and conducted a site survey and prepared a report. As a result, from the Natural Heritage Programs findings, we made some changes to the layout of the project to support and accommodate those findings in the report. The lots are 1.1-acre average which are already large enough to be part of a conventional subdivision.

- Ms. Weakley stated she had provided an email with her thoughts on this request, why has it taken so long to submit the permit application for the community well, you said you just submitted it last month, the construction plan was due by November 2020. We know the Covid pandemic delayed things, but that was two years ago, and you had not even applied yet. Mr. Mitchell stated he had not been involved in a community well process before and the amount of work and time needed for this was underestimated. Another setback was our first well site was located in the natural space and not the open space, so we needed to backup and shift locations for the community well. We had to submit an erosion control plan and then once that was approved, we had to clear to the well site and the well contractor schedule has been backed up as well. Once the well was drilled there were a lot of different

tests that needed to be conducted. This community well was a lot more work and time consuming than thought.

- Ms. Weakley stated in 2019 she had voted against the project because the layout did not provide connectivity between the Upland Depression Swamp Forest and the Dry Basic Oak Hickory Forest. But what has happened since is that the adjacent properties have been surveyed by the Natural Heritage Program and they found high quality Dry Basic Oak Hickory Forest & Dry Oak Hickory Forest in the northeast area of the project. This is a conservation subdivision, but you had said it would be laid out like this anyway if it were to be a conventional subdivision, because the soil is available. Ms. Weakley stated in her view, this project does not meet the standards of a conservation subdivision when you are cutting off connectivity to adjacent natural areas that are also high quality, specifically the northeast corner. When this project was before us in October of 2019, I voted against it because I had hoped Black Bear Ct. could be moved, the Upland Depression is disconnected from other significant areas that was designated by the Natural Heritage Program. Mr. Mitchell stated he had contacted the Natural Heritage Program per your request and the survey showed that the more significant element is the Dry Basic Oak Forest, but also the Upland Depression Swamp Forest, so those areas are complete preserved and the area in the middle of the project went from 5.8 acres to 18.74 acres. Over an additional 10 acres of natural area had been added to the most significant area of the site. The northeast area did not trigger anything even closely related to the significance of the middle of the site by the Natural Heritage Program report. Ms. Weakley stated she appreciates the protection of the area, but it lacks connectivity.
- Chair Lucier stated this project originally might have two community wells, but only one well is required? Mr. Mitchell stated they had two sites, but the first site brought 200 gallons a minute and for 40 lots it is only required for one well.

Motion made by Ms. Siverson to approve this item, second by Mr. Arthur. The item was approved by a vote of 7-2, Ms. Weakley and Mr. Fogleman opposed.

#### PUBLIC HEARING:

2. Request by Mark Ashness, P.E. on behalf of Pea Ridge Developers, LLC for subdivision First Plat review and approval of Firefly Overlook, consisting of 30 lots on 75.2 acres, located at the corner of Seaforth Road (SR-1941) and N. Pea Ridge (SR-1700), parcels 18070 and 17531.

Ms. Tyson stated the request is for First Plat review and recommendation of Firefly Overlook, consisting of 30 lots on 75.5 acres, corner of N. Pea Ridge Road, SR-1700 and Seaforth Road SR-1941, parcels numbers 18070 and 17531. A vicinity map showing the property location is included in the agenda packet. Per the Subdivision Regulations, Section 5.2C(4), a Public Hearing shall be held at the first Planning Board meeting to receive comments on the proposed subdivision. Item (b) states that following the Public Hearing, the Planning Board shall review the proposal, staff recommendation, and public comments and indicate their recommendation for approval, disapproval, or approval subject to modifications. As stated above the Planning Board has two (2) meetings to act on the proposal.

Firefly Overlook, Whitesound Way, and Green Turtle Lane are proposed to be built with a 20-foot-wide travel way and a 50-foot-wide public right-of-way and is to be state maintained. The applicant contacted Sy Robbins and Bev Wiggins, Chatham County Historical Association (CCHA), on August 31, 2022 via email correspondence. There is a 10x10 rubble shelter on the property. An email dated November 14, 2022 from Bev Wiggins inquiring about a possible half acre cemetery within the proposed project. Mr. Ashness stated the cemetery was behind the church that was part of the original 80 acres. Notification of the proposed development was provided to the Chatham County School System. Mr. Randy Drumheller, Chatham County Schools Director of Maintenance and Construction corresponded by email dated September 1, 2022.

The developer submitted the General Environmental Documentation and a letter dated August 25, 2022, from North Carolina Department of Natural and Cultural Resources Natural Heritage Program to Chatham County Land & Water Resources Division for review. The letter states “A query of the NCNHP database, indicates that there are no records for rare species, important natural communities, natural areas, and/or conservation/managed areas within the proposed project boundary. Please note that although there may be no documentation of natural heritage elements within the project boundary, it does not imply or confirm their absence; the area may not have been surveyed.” Rachael Thorn, Watershed Protection Director, reviewed the information submitted. Ms. Thorn replied in a letter dated September 14, 2022 that the requirement has been met. Additional comments included any Allowable uses and Allowable with Mitigation uses in the protected riparian buffer will require a Buffer Authorization from Chatham County, all permits with wetland and stream impacts from NC Division of Water Resources and the US Army Corps of Engineers will need to be obtained prior to receiving approval from Chatham County for a Grading Permit and Land Disturbing Permit.

A community meeting was held on August 31, 2022 at Chatham County Public Library, 197 NC Highway 87, Pittsboro. Approximately eighteen (18) people attended the meeting. Items/issues discussed included:

- Will there be an HOA?
- Will there be lighting? Have they considered “dark skies” policy?
- Will lots be sold to individuals or to builders?
- Has the soil been tested for septic?
- Concerns with Turtle Creek flooding Seaforth Road.
- Concerns with neighboring wells and the depth of the new wells
- What type of septic systems are to be installed?
- Will County water be extended?
- Will there be high speed internet?
- What type of amenities for the development?
- When will homes be constructed?
- Will the site be clearcut?
- What will be done about stormwater run-off?

The TRC met virtually on November 16, 2022 to review the First Plat submittal. The applicant Mark Ashness, P.E. and applicant were present. Items discussed included:

- Will there be street lighting? *Mr. Ashness stated some street lighting will be within the project.*
- What are the setbacks? *Standard setbacks*
- If the buffer crossing was within the 75-degree and 105-degree threshold – *Mr. Ashness stated, they can provide that as required*
- Driveway buffer crossing for lot 14 it is not perpendicular, the driveway can be adjusted to come up lots 15, 16, or 17 – *Mr. Ashness stated they will adjust the driveway and have it come between Lot 15, 16, or 17.*
- Road names are reserved for approval
- Closest water point on North Pea Ridge Road is Cross Wind Estates on Hwy 64, hydrants at Seaforth High School and Jordan Lake, quite a way to shuttle water to a structure fire
- Cemetery behind the church may be part of project – Cemetery is behind the church per Mr. Ashness
- Sight distance at proposed location found to not meet minimum requirements based on NCDOT field visit. NCDOT advised to move the driveway connection up to a location 395 LF W of the centerline of the intersection with Seaforth Rd (basically, to the crest of the vertical curve) to achieve sight distance
- Increase right-of-way to 60’ wide
- Use a widened entrance

- NCDOT does not anticipate the need for roadway improvements

A soils report and map were submitted to James Tiger, On Site Wastewater Supervisor, REHS, with Chatham County Environmental Health, for review. Mr. Tiger stated he had concerns with Lots 3, 10, 13 and 27 and any lot with less than 12,000 square feet of usable soils area. All other lots should have adequate area per the soils report. Each lot will have individual wells. The road names Firefly Overlook, Whitesound Way, and Green Turtle Lane have been approved by Chatham County Emergency Operations Office as acceptable for submittal to the Board of Commissioners for approval.

Rhiannon Graham with Terracon submitted the Riparian Buffer Review Application along with a riparian buffer map, to Drew Blake, Asst. Director Watershed Protection Dept. for review. Mr. Blake and staff members of Terracon completed an on-site riparian buffer review on July 14, 2022, to verify the consultant's findings. Mr. James Lastinger with the U.S. Army Corps of Engineers has not visited the site, he has provided an email dated October 20, 2022 he received the request July 26, 2022 and plans to approve the Preliminary Jurisdictional Determination but has not had the opportunity to complete the request. Mr. Blake issued a report of his findings dated July 22, 2022, confirming one (1) ephemeral stream, three (3) intermittent streams, three (3) perennial streams, and nine (9) potential wetlands were identified. The one ephemeral stream requires 30-ft buffers, three (3) intermittent streams require 50-ft buffers, the three (3) perennial streams require 100-ft buffers, and the nine (9) wetlands require 50-ft buffers from all sides landward.

Three stormwater devices are proposed and will be placed in open space. The devices are located between Lots 29 and 30 and between Lots 17 and 18. As part of the stormwater permitting process additional information will be provided to the Watershed Protection Department. A Stormwater Permit and Sedimentation & Erosion Control Permit will be obtained from the Chatham County Watershed Protection Department prior to Construction Plan submittal. No land disturbing activity can commence on the property prior to obtaining Construction Plan approval. The site visit is scheduled for November 29, 2022 and December 1, 2022. At the time of preparing the notes for Planning Board packets staff did not visit the site. Pictures of the site visit may be viewed on the Planning Department webpage at [www.chathamcountync.gov/planning](http://www.chathamcountync.gov/planning), Rezoning and Subdivision Cases, 2022 and will be available after the site visit.

The proposed subdivision meets the adopted riparian buffer and stormwater control standards of the county. The developer also contacted the NC Natural Heritage Program to review their database for any rare species, important natural communities, natural areas, or conservation/managed areas within the project boundary and no rare species were identified in their records. It should be noted that Plan Chatham is not intended to be used as a regulatory tool but is a policy document. When reviewing subdivision applications, the boards can use the plan as a tool to identify future regulatory changes.

Ms. Tyson also stated the Planning Department recommends granting approval of the road names Firefly Overlook, Whitesound Way, and Green Turtle Lane and granting approval of subdivision First Plat for **Firefly Overlook** with the following conditions:

1. Approval of the First Plat shall be valid for a period of twelve (12) months following the date of approval by the Board of Commissioners and the Construction Plan approval shall be valid for a period of twenty-four (24) months from the date of approval by the Technical Review Committee or Board of Commissioners.
2. The county attorney shall review and approve the contract and performance guarantee prior to final plat recordation.
3. Driveway buffer crossing for Lot 14 shall be perpendicular, if there is a shared driveway Section 7.4 of the Subdivision Regulations shall apply.
4. Verify Lots 3, 10, 13 and 27 shall have adequate soil area for septic.

## Board Discussion:

- Mr. Mark Ashness stated this is a typical Chatham County subdivision, large lots, individual well, and septic, no satellite septic fields on the project, NCDOT public roads with shoulder ditch sections. The project is about 75 acres with three water quality ponds and the mail kiosk in open space with only 30 lots. There are only two stream crossing impacts, one is a narrow driveway for the lot all the way in the back and the public road crossing towards the front of the project.
- Chair Lucier asked about the stream crossing for the lot in the back, is that stream a perennial or intermittent stream? Mr. Ashness stated it is a perennial stream and will require a 100' buffer on each side. This is a very pretty lot and is 3 acres in size, so it is worth the narrow stream crossing.
- Chair Lucier stated there were some questions about septic on four different lots, 3, 10, 13, and 27, what is being done about those concerns. Mr. Ashness stated we have a reputable soil scientist that has done a lot of work in Chatham County, and we trust his work and report. The square footage of those lots in his report exceeded the requirements. If there is any reason, we cannot achieve this during the permitting, then a lot would need to go away, but we do not anticipate that need. Ms. Weakley stated that are four lots that Environmental Health was concerned about, plus any lots with less than 12,000 sqft of usable area which would add an additional three lots, 4, 16, and lot 19. That is 7 out of 30 lots that Chatham County Environmental Health department has concerns about. Mr. Ashness stated the County requires us to have a licensed soil scientist go out and evaluate the site, which he has thoroughly done and provided a report, and we are confident we will be able to achieve that. Ms. Weakley added that the report called for 5 lots had low profile chamber systems, lot 14 had subsurface drip, and lot 11 has surface drip. The subsurface and surface drip which comprises 25 of the 30 lots will require additional testing by the State's Environmental Health and NCDEQ.

Mr. Ashness stated that is correct, much like the construction plans we will submit once this First Plat is approved, it will go to NCDOT for the road to be approved and NCDEQ plus US Army Corps will have to approve the stream crossings as well, it is a performance standard that is required, and we have a very reputable soil scientist behind this report. Ms. Weakley stated the 25 out of the 30 lots may need to be State approved systems and would not be permitted by the county. Mr. Ashness stated that is fairly typical of this type of project and a subdivision near Apex Nursery off of Hwy 751 had at least 1/3 if not 1/2 of those systems were required to be State permitted which requires a rigorous review with additional monitoring required of those systems verses a conventional system that would be approved by the county. We had expected this would be the case with surface and subsurface drip systems and we have the appropriate setbacks required for those systems. Ms. Weakley stated the oversight by the State is not that great and the lifespan of these systems is 20 years. Mr. Ashness stated it is a higher level of treatment overall than conventional systems.

- Vice-Chair Spoon stated the first stream crossing which opens up to the rest of the project seems like it will be a rather significant crossing, what are the plans for this stream crossing and alleviating any flood concerns which could lock everyone in the neighborhood? Mr. Ashness stated they did not have a whole lot of options because of the way the buffers are located, the crossing will be where two streams connect into one larger stream, but this area is where the stream shallows out and is dry most often. We are located at the top of the watershed and there is not a lot of drainage area accumulating at this crossing point and a project with lots sizes like this one with a lot of open space and very little land disturbance, runoff will be very minor.
- Chair Lucier stated this project borders against two of OWASA's properties that potentially used for the western intake and water treatment plant for Chatham County plus some other jurisdictions, are there any other issues this is going to cause you by bordering with water treatment area? Mr. Ashness stated the only lot that might be the most impacted would-be lot 30 on this project, but all of the infrastructure will be located on the other side of the road closer to the Jordan Lake. There will be adequate buffers and it will not be an issue. Ms. Weakley stated this site is draining into the Jordan Lake proposed

intake. Mr. Ashness stated in my opinion lots in excess of 2-acre average is not impactful compared to what other jurisdictions would allow.

- Ms. Weakley stated the east side of this project is in the critical area of Jordan Lake for the water supply intake which would impact lot 24 and maybe lot 23. Ms. Weakley stated she would like to understand more about what Environmental Health concerns are for the 7 out of 30 lots before I could feel comfortable to take action on this item.
- Mr. Arthur stated this project is not close to water and there is a concern about fire and emergencies, what will happen in the event of a fire? Chair Lucier stated that is true for a lot of places in Chatham County. Mr. Ashness stated this is a rural NC issue, not just a Chatham issue. There is a water line at the high school and a fire station with water trucks is located less than a mile away from this project.
- Vice-Chair Spoon stated this project looks straight forward and likes that the septic areas are contained on each lot and density seems to be manageable for this amount of acreage. Lot 14 seems to have a lot of driveway and stream crossings just to access that one lot. Mr. Ashness stated it will be a very narrow driveway stream crossing and is a beautiful lot. Vice-Chair Spoon asked if there was anyway lot 14 could have connectivity to the other development with the existing stream crossing? Mr. Ashness stated there was some discussion about that, but it does not seem to be something that will work out.
- Ms. Siverson asked how much land disturbance would need to happen for the State regulated septic systems, because this property is very pretty and would hate to see the trees torn up. Mr. Ashness stated it is the same as a typical conventional systems, no extra type of clearing. This is going to be a custom neighborhood and they will not cut down anything if it is not necessary.
- Ms. Weakley asked if there was any way to receive feedback from the Environmental Health department about their concerns and also, what if the soil is not suitable? Vice-Chair Spoon stated condition 4 states, "verify Lots 3, 10, 13 and 27 shall have adequate soil area for septic." That condition would need to be met and if the soil is not met a lot may be lost. Ms. Weakley asked if the lots are adjusted, will that be an administrative review? Mr. Sullivan stated it will be an administrative review if that needs to happen.

Motion made by Vice-Chair Spoon to approve this item, second by Mr. West. The item was approved by a vote of 9-0, unanimously.

#### VIII. ZONING ITEMS:

1. A legislative public hearing requested by Drafting and Design Services, Inc. on behalf of Because of His Grace, LLC for a rezoning from R-1 Residential to GU-NB General Use Neighborhood Business on Parcels 77640, 80540, 94921, and 5588 being a total of 9.71 acres, located at 4295 Old US 1, Cape Fear Township.

Ms. Plummer stated a legislative public hearing was held November 21, 2022. Planning staff presented the request. Also speaking was Michael Blakley, representative for the applicant, and the property owner. Parcel 80540 is a vacant parcel, but the other parcels have historically been used for residential purposes. The parcel behind these group of properties, Parcel 5585, being approximately 193 acres, has recently been approved for light industrial zoning by the Board of Commissioners. When considering a general use rezoning, all uses listed in Section 10.13 of the Chatham County Zoning Ordinance under the proposed zoning classification are permitted. However, due to site specific limitations 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, would be remedied by the proposed amendment.** No error in the Ordinance is being claimed.
2. **The changed or changing conditions, if any, make the proposed rezoning reasonably necessary.** Due to growth projections in the Moncure area and with the onset of several rezonings to industrial zoning designation in the surrounding area, these properties can be utilized to support the future employment centers and major manufacturing jobs already approved. This rezoning could provide a small-scale commercial retail in support of the area.
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.** Although these parcels are not located within a node area, because there are properties adjacent, a precedent for non-residential use has been established. The following has been provided in support of the Plan:
  - Page 14 Economics & Growth- these properties will have the ability to provide for general retail and commercial uses to support the growing industrial opportunities that have been or will be approved in this immediate area.
  - Page 24 Housing and Demographic Trends- a large subdivision in the Moncure area has already been approved. There has been interest in multi-family housing possibilities due to the industrial employment jobs being proposed in this immediate area. Residential areas can benefit from local commercial and retail services and will be needed if housing increases as projected.
  - Page 62 Land Use Policy 2- these properties will have access to the county water system but will utilize on-site septic for wastewater.
  - Page 103 Natural Resources – the project is allowed up to 36% built upon area keeping the remaining 74% undeveloped which protects the natural resources.
4. **Other factors/reasons for rezoning request.** A general commercial/retail business will generate traffic. Per 2020 vehicle counts, approximately 3700 ADT are on Old US 1. A proposed use for these properties could generate an additional 170-200 ADT and the road can currently support up to 14,000 ADT. Specific site plan requirements will be reviewed by the appropriate county departments when an end user is identified. This will include a review by the Chatham County Appearance Commission for landscaping, lighting, signage, parking, etc. and shown to comply with all county regulations. Additional road improvements are proposed by NCDOT in the vicinity of these parcels in response to the Vinfast announcement and are part of Phase 2.
5. **All other information required on this application or as offered by the applicant in support of the request.** There are blue line streams noted on the adjacent property per the below NRCS maps. No other water features noted on these parcels. The property fronts on Old US 1, has access to county water, and will utilize a private septic system until which time public sewer may be available. The owner of the property stated the rezoning of these parcels would open up opportunities for a new small business that could in turn help to support his missions from his church in Lee County. He stated they want an end user that will complement the surrounding industry.

Ms. Plummer stated the Planning Board has up to three meetings in which to make a recommendation to approve or deny the request to the Board of Commissioners.

If approval is recommended, the following Consistency statement has been provided for consideration:

“The rezoning of these parcels supports the Comprehensive Land Use Plan by providing supportive services in an industrially zoned area and will offer job opportunities.”



## Board Discussion:

- Vice-Chair Spoon stated when we approved the rezoning for parcel 5585 behind these proposed parcels, they were going to have two access points to Hwy US 1, is that correct and will this rezoning, or their access impacted? There was some discussion about the access from parcel 5585 to Old US 1 and it was determined by looking on GIS that parcel 5585 will continue to have two frontage access points to Old US 1.
- Mr. Michael Blakley stated he is here with the client Mr. Robert House who is also representing the project. We are coming before the Board tonight to rezone this property, we currently do not have an end user of the property yet, but we would be glad to answer any questions for the Board.
- Vice-Chair Spoon asked if they have had any discussions with the landowners behind them about sharing road access or would you have your own road access? Mr. Blakley stated they would have their own access, but interconnectivity with the other parcel depending on what they do with their property and development. Chair Lucier stated this is 4 separate parcels totaling 9.7 acres, and you own them all? Mr. Blakley stated the client is the owner of all 4 parcels and would complete a recombination of those parcels at the development plan process.
- Ms. Weakley stated there is no stream on site, but there is a stream located on the adjoining property, does the county apply buffers on adjacent properties? Ms. Plummer stated we would need to wait and see what the delineation shows and if there are buffers required it will need to be coordinated. Chair Lucier stated if the stream is a perennial, it will require 100' buffer on either side of it and if it is determined to be intermittent, a 50' buffer on either side would be required. Mr., Blakley stated we are limited to only 36% impervious surface so that is only roughly 3 acres of the 9.7-acre parcel, it will not be an issue.
- Chair Lucier stated these parcels are outside the node, but adjacent to industrial use parcels. Ms. Plummer stated the Land Use Map is a guideline and not a regulation, but correct it is not located in the node, but it is surrounded by non-residential parcels. There was some discussion about the rezonings in this Moncure area and how little by little there will not be many R-1 parcels left.
- Vice-Chair Spoon stated this rezoning makes sense for this area and a need for neighborhood business support and encouraged the applicant to speak to the other parcel about their plans and access for them and your project.

Motion made by Vice-Chair Spoon to approve the consistency statement, "The rezoning of these parcels supports the Comprehensive Land Use Plan by providing supportive services in an industrially zoned area and will offer job opportunities." Motion seconded by Mr. Arthur. The consistency statement was approved by a vote of 9-0, unanimously.

- Ms. Weakley stated she does not agree with all the scope creep in this area, but she does agree with Vice-Chair Spoon about a property adjacent to another property that was just rezoned and does seem like an appropriate use given the road access.

Motion made by Mr. Arthur to approve the rezoning item second by Mr. Fogleman. The item was approved by a vote of 9-0, unanimously.

2. A legislative public hearing requested by Russ Anderson for a rezoning from R-1 Residential to General Use Light Industrial (IL) on Parcel 5518 being 15 acres, located at 5749 Old US 1, Cape Fear Township.

Ms. Plummer stated a legislative public hearing was held November 21, 2022. Planning staff presented the request. The owner, Russ Anderson, also addressed the Board stating this parcel is not suited for residential development, is located within an opportunity zone based on the current non-residential rezonings and the industrial development already approved, and land locked and adjoins his current boat and rv storage facility. He also stated a portion of his storage lot may be taken by NCDOT for the road improvements to New Elam Church Road to provide additional access to the VinFast site. Comments also included he would like this property rezoned so that he can have options going forward for redevelopment of his current site or adding additional supportive uses for the area.

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, would be remedied by the proposed amendment.** No errors are being claimed.
2. **The changed or changing conditions, if any, make the proposed rezoning reasonably necessary.** Due to the fast-changing industrial makeup of the Moncure area with the construction of a new FedEx distribution warehouse, the announcement of the auto manufacturer, VinFast, and the other multiple rezonings, the applicant seeks to rezone the parcel adjoining his other property where the boat and rv storage facility is. This would allow for more employment opportunities and increase in tax value.

The property is currently land locked and located on a major highway therefore making it less desirable for residential development. Access to the property would be through the existing boat and RV storage facility, Parcel 92203. Should NCDOT remove access to New Elam Church Road, he will seek an alternate access via Obler Road where the Land Hunter Storage facility has been constructed which is zoned Industrial Light.

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.**

Chapter 2, page 14, Economics and Growth recognizes the county is growing at a fast pace and encourages businesses and industry to locate here to balance residential growth. This property is not suited for residential development and therefore supports this objective.

Chapter 3, page 41, Objective 4, this goal can be achieved by the rezoning which will allow for diversity in the tax base, provide job opportunities, and strengthen the support for existing businesses

Chapter 4, page 55, Recommendation 02, this rezoning located within an Employment Center node fosters the possibilities of increase employment opportunities.

4. **Other factors/reasons for rezoning request.** The current access to the parcel is through the applicant's adjoining property that fronts on New Elam Church Rd. Future access may be needed depending on the proposed NCDOT reconfiguration of New Elam Church Road. Regulations on

lighting, setbacks, landscaping, signage, and parking will be complied with once an end user has been identified and site plans submitted for review.

5. **All other information required on this application or as offered by the applicant in support of the request.** The site will utilize the county water system and private septic. Stormwater controls will follow the Chatham County Storm Water Ordinance regulations.

Ms. Plummer also stated the Planning Board has up to three meetings in which to make a recommendation to approve or deny the request to the Board of Commissioners.

If approval is recommended, the following Consistency statement has been provided for consideration:

“The rezoning of the property is consistent with the Comprehensive Land Use Plan by supporting economic growth, providing diversity to the tax base, and fostering employment opportunities within an Employment Center node.”

Board Discussion:

- Mr. Russ Anderson stated he is the owner of the property up for discussion and rezoning as well as the property in front of it. They are asking for rezoning so this parcel will match the other light industrial parcel. The soils in this area are not great and there is not a sewer available so it would be a private septic. This project will fall under the 36% impervious surface requirement so only about 5 acres of this property will be usable. The purpose of the rezoning it t prepare for what is coming in the area and we have been in communication with NCDOT for egress and digress of my parcels. Right now, the first step is to rezone and go from there.
- Vice-Chair Spoon asked what if the NCDOT plans do not go your way, what are the plans for access then? Mr. Anderson stated nothing will change or shift until I communicate and make agreements with the surrounding neighboring parcels which they said they would help out in any way if needed. First, we need to learn what is happening and learn how we can prepare for business. Chair Lucier stated he does not have any issues with this rezoning, it is landlocked and located in the employment center. Ms. Weakley stated she does not have any issues with this rezoning either because the soil is not appropriate for R-1. Ms. Weakley stated there was a wetland shown and the adjacent parcel has a floodway that would require a buffer which might impact on your parcel as well. Mr. Anderson stated he is aware of that, and it will not be an issue because of the required 36% only impervious surface, they have a lot of acreage to work with.

Motion made by Vice-Chair Spoon to approve the consistency statement, “The rezoning of the property is consistent with the Comprehensive Land Use Plan by supporting economic growth, providing diversity to the tax base, and fostering employment opportunities within an Employment Center node.” Motion seconded by Ms. Siverson. The consistency statement was approved by a vote of 9-0, unanimously.

Motion made by Mr. Arthur to approve the rezoning item second by Mr. Fogleman. The item was approved by a vote of 9-0, unanimously.

3. A legislative public hearing requested by Withers Ravenel on behalf of Joette and Manley Midgett for ST Wooten for a rezoning from R-1 Residential to CD-IH Conditional District Heavy Industrial for a concrete batch mixing plant on Parcel 68321 being 21.26 acres, located off Pea Ridge Rd., Cape Fear Township.

Ms. Plummer stated a legislative public hearing was held on November 21, 2022. Planning staff presented the request. June Cowles, consultant for the applicant, and the vice president of ST Wooten spoke on the request and answered a questions from the Board which were:

- How is access going to change with the proposed NCDOT road reconfigurations? ST Wooten will have a controlled access via a service road.
- Will the Duke Energy coal ash site be utilized for the mixing of the concrete? Yes

No one else spoke on the matter.

The Chatham County Appearance Commission reviewed the proposed site plan August 24, 2022. They recommended unanimously to accept the landscaping and site plan as submitted.

Although the proposed use is for a concrete batch mixing plant, the applicant did provide a list of additional permitted uses for this rezoning. They are:

- Wireless telecommunications facilities and wireless support structures
- Asphalt manufacture or refining
- Landscaping and grading business
- Public utility transmission lines
- Grain elevators
- Fire stations, emergency medical service facilities, police stations and law enforcement offices

A community meeting was held on September 7, 2022. General questions were asked of the participating members such as hours of operation, shields for lighting, dust control, and number of trucks per day on average. The projected trip generation is approximately 72 per day between 6-8 trucks. Based on the traffic study provided with the application materials, NCDOT did not consider this amount of truck traffic to warrant a full traffic impact analysis which uses 3,000 trips per day the starting point.

When determining whether a rezoning request should be approved under Section 5 Conditional Zoning Districts, the following findings must be supported.

1. **The alleged error in the Ordinance, if any, would be remedied by the proposed amendment with a detailed explanation of such error in the Ordinance and detailed reasons how the proposed amendment will correct the same.** No error is being claimed in the Ordinance.
2. **The changed or changing conditions, if any, of the area or in the County generally, which make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare.** The batch plant will be owned and operated by the ST Wooten Corporation which also owns the adjoining asphalt plant. It is anticipated this facility will serve the current and proposed developments either under way or preparing to develop such as the FedEx distribution warehouse, the VinFast auto manufacturer, and subdivisions. By having a facility in closer proximity to all the Moncure development, traffic will be more centralized keeping distances these trucks must travel to a much smaller area therefore off many other roadways.
3. **The manner in which the proposed amendment will carry out the intent and purpose of any adopted plans or part thereof.** The parcel is located within the Employment Center node of the Comp Plan. The proposed use anticipates 12 new employment positions. Other support is as follows:
  - Chapter 2, page 21, Land Use Suitability, this area falls within the high suitability for industrial uses as well as within the Employment Center node for industrial and commercial potential.
  - Chapter 3, page 41, Objective 4, a rezoning from residential aids in diversifying the tax base to generate jobs and reduce dependence on residential property taxes.
  - Chapter 3, page 42, Objective 5, this project will be conserving approximately 74% of the parcel due to floodable areas and streams. There is an existing cleared area in the middle of the property

at the highest point where the plant and all activity will take place. They are also providing an 80 ft vegetative buffer along the eastern and southern property lines where vegetation does not exist adequately.

- Chapter 4, Plan Elements, Recommendation 2, this project will provide employment opportunities within a designated Employment Center.
  - Chapter 4, page 56, Strategy 3.4, encourages complimentary uses in proximity to the mega site to be located.
4. The requested amendment is either essential or desirable for the public convenience or welfare. A study by Ramey Kemp and Associates was conducted and the proposed use will yield about 6 truck deliveries per hour between 6am and 6pm. This level of activity did not warrant a full TIA per NCDOT.

Visually, the facility will not be seen from Pea Ridge Road. Existing tree-scape and additional vegetative buffering will surround the site on three sides. Due to the floodable areas on the property, those areas will remain undisturbed leaving 74% of the property undeveloped.

5. **All other circumstances, factors, and reason which the applicant offers in support of the proposed amendment.** The property is located within the RCSA which limits BUA to 36% maximum with an allowance of up to 50% with an approved SNIA. They are not seeking any additional allocation due to the floodable area on the property.

A truck washing area will be available on the site in order to keep products, gravel, and debris off the main roadways. This will be handled using recycled water from the site system.

The site will utilize the county water system at about 60,000 gpd. The storm water control measures will be consistent with the County storm water ordinance and NCDWQ to capture and treat runoff volume.

The proposed use for "Asphalt manufacture or refining" shall be removed from the list of permitted uses because it requires a special study per Section 17.9 of the Zoning Ordinance, and one has not been provided. It is a required pre-requisite for submitting a Conditional District Rezoning or Special Use Permit.

Ms. Plummer stated the Planning Board has up to three meetings in which to make a recommendation for approval or denial to the Board of Commissioners. If the Planning Board recommendation is approval of the request, the use "Asphalt manufacture or refining" must be removed from the list of requested uses.

Should your recommendation be for approval, the following Consistency Statement has been provided for consideration:

"The rezoning is consistent with the Comprehensive Land Use by being located within an Employment Center node, will be a complimentary use to the mega site developments, and adding an increase property tax value."

The below conditions shall apply to any approval as follows:

### **Site Specific Conditions**

1. The recommendations from the Chatham County Appearance Commission (CCAC) shall be followed as stated in the minutes and as shown on the site plan. The planning staff and CCAC may conduct routine inspections of the property to ensure compliance with the landscaping requirements.
2. Prior to any change in use from the concrete batch plant to one of the additional uses approved with this request, a revision to the site plan shall be provided through the Conditional District Rezoning process and must receive approval from the Board of Commissioners before any such change may take place.
3. A building permit shall be obtained and remain valid at all times within two years of the date of this approval or the site plan becomes null and void.

## **Standard Site Conditions**

4. The application, standards and adopted regulations of the applicable ordinances and policies, and the approved recommendations as provided for and/or conditioned, are considered to be the standards as set forth and shall comply as stated. Changes to or variations from any requirements of this permit must be approved through the Planning Department or other approving board before any such changes can take place.
5. All required local, state, or federal permits (i.e., NCDOT commercial driveway permits, NCDWQ, Chatham County Land and Water Resources, and Environmental Health Division, etc.) shall be obtained, if required, and copies submitted to the Planning Department as part of the platting process.

## **Standard Administrative Conditions:**

6. Fees - Applicant and/or landowner shall pay to the County all required fees and charges attributable to the development of its project in a timely manner, including, but not limited to, utility, subdivision, zoning, and building inspections.
7. Continued Validity – The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditions listed above.
8. Non-Severability – If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
9. Non-Waiver – Nothing contained herein shall be deemed to waive any discretion on the part of the County as to further development of the applicant's property and this permit shall not give the applicant any vested right to develop its property in any other manner than as set forth herein.

### Board Discussion:

- Ms. Weakley asked for the perennial stream to show a 100' buffer and not a 50' buffer on the site plan and the 100-year floodplain. Ms. Plummer stated they can get that corrected on the site plan.
- Ms. June Cowles with Withers Ravenel stated they are within the employment center designation and using the existing driveway, they will correct the 50' buffer to a 100' buffer and move any stormwater treatment apparatuses out of that area.
- Chair Lucier asked if they were ever going to stop using the concrete plant and switch to any of the other requested additional uses, because if so, they would need to a whole new site plan and get commissioners approval. Ms. Cowles stated it is hard to look that far into the future and we do understand that a new site plan would need to be submitted for approval. Chair Lucier stated he is a little reluctant to approve this with all the additional uses brought before us on this list. Mr. Brian Gurganus, Vice-President of ST Wooten stated they are willing to remove all of the other additional uses except for the Wireless telecommunications facilities and wireless support structures.
- Vice-Chair Spoon asked how does the process work for Duke Energy and the coal ash disposal? Mr. Gurganus stated we use the coal ash as an additive filler in our paving ready mix and the coal ash is just dropped off and the trucks leave. They do not have access to the truck washing area.
- Chair Lucier asked if the service road connects to the proposed County Park? Mr. Gurganus stated there will be a new access road to the Country Park and the service road will run parallel to the new road.
- Vice-Chair Spoon asked if all of the activity at the concrete plant falls within the 6am-6pm hours of operation or is there other activity into the evening and is the trip count going to stay at 72 per day? Mr. Gurganus stated yes most all activity is between those hours, but there are times when we run at night in addition to daytime. The 72 trips per day is an average, there are heavier day than others. Chair

Lucier asked if there are any residential properties nearby. Mr. Gurganus stated there are a few up and down Pea Ridge Road. Ms. Plummer stated the few comments we have heard from nearby residents have had nothing but good things to say about ST Wooten, they are good neighbors.

Motion made by Vice-Chair Spoon to approve the consistency statement, "The rezoning is consistent with the Comprehensive Land Use by being located within an Employment Center node, will be a complimentary use to the mega site developments, and adding an increase property tax value." Motion seconded by Mr. Fogleman. The consistency statement was approved by a vote of 9-0, unanimously.

- There was some Board discussion about the motion for approval and what additional uses they will allow and not allow. It was determined that all the additional uses would be removed from approval except the Wireless telecommunications facilities and wireless support structures. There was also discussion of adding the 100' buffer on the stream and the natural vegetated buffer within the floodplain.

Motion made by Vice-Chair Spoon to approve the rezoning item with the conditions that the only additional use be Wireless telecommunications facilities and wireless support structures, and the perennial stream show a 100' buffer and the natural vegetated buffer within the floodplain on the site plan, and any stormwater treatment measures removed from the floodplain. Mr. Fogleman seconded the motion. The item was approved by a vote of 9-0, unanimously.

IX. NEW BUSINESS:

No new business

X. BOARD MEMBERS ITEMS:

1. Update from the Planning Board liaisons.

- Chair Lucier stated he was unable to attend the Pittsboro Planning Board meeting because he was at the BOC meeting giving a presentation for the Tree Protection Ordinance with the working group and will be going forward to the UDO.
- Vice-Chair Spoon gave an update on the Planning Board UDO subcommittee. We have reviewed the 75% draft of Chapter 4, which is the zoning portion and there was a large table of uses which some of the members are still combing through and providing comments the Mr. Mullis. There will be another meeting in mid-January.
- Ms. Siverson stated the Siler City Planning Board agenda did not have any new business and she was unable to attend the Agricultural Advisory meeting.
- Ms. Weakly stated the Chatham Conservation Partnership steering committee met and discussed 2023 meeting topics, the next meeting will be held on January 19<sup>th</sup> and the topic is "Celebrating Milestones in Conservation Where We Have Been and Where We Are Going." We are looking to send out a survey for meeting topics as we are considering the rest of the topics.
- Mr. Arthur stated he has served on the Planning Board for eight years and it is time to resign. He has informed Ms. Howard, and it has been an honor to service on this Board. We have covered a lot over the past eight years, and we have a great staff and great volunteers serving on this Board. Planning Board members thanked Mr. Arthur for his service.

- Ms. Siverson stated her term limit is up and she will be leaving the Planning Board as well. She stated it has been a pleasure to work with everyone on the Board and all we have accomplished. Planning Board members thanked Ms. Siverson for her service.

2. Discuss and decide the January Planning Board meeting location.

XI. PLANNING DIRECTOR'S REPORTS:

Mr. Sullivan reported on the following:

1. Minor Subdivision spreadsheet
2. Unified Development Ordinance Update
  - The December 19<sup>th</sup> BOC meeting will have a Small Area Plan and UDO presentation from the consultants.
3. Moncure Site Area Update
  - There is a lot of work going on with the Small Area Plan with a lot of consultants for input. Mr. Sullivan shared current photos of the VinFast site and the FedEx site.

XII. ADJOURNMENT:

There being no further business, the meeting adjourned at 8:56 p.m.

Signed: \_\_\_\_\_ / \_\_\_\_\_  
George Lucier, Chair Date

Attest: \_\_\_\_\_ / \_\_\_\_\_  
Dan Garrett, Clerk to the Board Date