



Chatham County Planning Board Minutes July 2, 2024

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

<u>Present</u>		<u>Absent</u>
Jon Spoon, Chair	Mary Roodkowsky, Vice-Chair	Shelley Colbert
Tony Mayer	Eric Andrews	
Amanda Roberson	Clyde Frazier	
Nelson Smith	Elizabeth Haddix	

Planning Department

Jason Sullivan, Director 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. DETERMINATION OF QUORUM:
Chair Spoon stated there was a quorum, 8 members were present. Ms. Colbert was absent. Chair Spoon informed the board that Ms. Hernandez and Jamie Andrews have both resigned from the Planning Board.
- III. APPROVAL OF AGENDA:
Approval of the Agenda – Mr. Frazier asked that the Jordan Lake Business park item be pulled from the consent agenda to the regular agenda for discussion. Motion made by Vice-Chair Roodkowsky to approve the agenda, seconded by Mr. Mayer. The agenda and the one item on consent was approved, 8-0, unanimously.
- IV. APPROVAL OF THE MINUTES:
Consideration of the June 4, 2024 meeting minutes. Motion by Ms. Robertson to approve the June 4th minutes and seconded by Mr. Frazier, the minutes were approved 7-1, Ms. Haddix abstained because she was absent for the June meeting.
- V. PUBLIC INPUT SESSION:
There was not anyone who signed up to speak.

VI. CONSENT ITEM:

1. A legislative public hearing requested by Roy Tripp on Parcel 19435, located at 3060 Lystra Rd., being approximately 6.05 acres, from MH-NC mobile home non-conforming to R-1 Residential, Williams Township.

This consent item was approved with the agenda approval.

VII. ZONING ITEM:

1. A quasi-judicial public hearing requested by Jordan Lake Business Park, Parcel 17706, located at 1434 Farrington Rd., being approximately 5.701 acres, for a Special Use Permit revision to remove Condition No. 5 from the original approval which prohibits schools from locating in the facility when there are any industrial uses operating at the same time.

Mr. Sullivan said a quasi-judicial public hearing was held June 17, 2024. Planning staff presented the request and no-one else spoke on the request. This property was home to Bell's School in 1922. A new school building was constructed in or around 1965 per tax records. Jordan Lake Business Park was originally approved as conditional use district light industrial with a conditional use permit for assembly of machinery and goods from previously prepared parts and light manufacturing or processing not otherwise named in 1995. In 2003 there was an amendment to add additional uses to the list of approved uses that could locate on the property. For reasons not noted in the files, a condition was placed on the approval to not allow a school, whether public or private, to be able to locate in any of the suites if there were any industrial uses operating at the same time.

However, the Jordan Lake School of Arts has been in this building since around 2009 and at the time was not identified as a public or private school in the sense of education that follows the North Carolina curriculum. The revision to the approval would clear the path for public and private schools to be located in the building. The school has and continues to be inspected by the county departments.

When determining whether a Special Use Permit revision request should be approved as per 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 in the Ordinance is being claimed.
2. **The requested special use permit is either essential or desirable for the public's convenience or welfare.** There are no requested changes to the appearance of the site for this revision request. The applicant needs to have more flexibility in allowing the use of a school to serve the area.
3. **The requested permit will not impair the integrity or character of the surrounding or adjoining districts, and will not be detrimental to the health, safety, or welfare of the community.** No outward changes are requested or needed for this revision. With the restrictions on wastewater capacity already in place, limits on the level of activity will be restricted. There are no public improvements needed.
4. **The manner in which the proposed amendment will carry out the intent and purpose of any adopted plans or part thereof.** The property is within the Rural designation of the land use plan.

Pg. 55, Strategy 1.2 encourages the county to allow for more flexibility for rural businesses that have minimal impact on adjacent properties, traffic, and rural character.

Pg. 56, Strategy 4.4 encourages permitting existing businesses that are appropriately zoned to continue to operate, and allow for reasonable expansions, contingent upon meeting environmental and transportation requirements.

5. **Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary facilities have been or are being provided consistent with the County's plans, policies, and regulations.** This facility has been permitted by the state for a recycled community wastewater system and was one of the first permitted in the state. The system limits capacity so there can only be so many people in the building at one time. They will continue to utilize the permitted system for water usage and wastewater. The property is within the WSIV-Critical Area watershed where only 24% of the site can have built upon area so no new development is proposed.

Mr. Sullivan said under the Zoning Ordinance procedures, the Planning Board may review the proposal for recommendation of approval or denial to the Board of Commissioners. The Planning Board has up to three meetings to conduct this review. Revisions to Special Use Permits are processed through a quasi-judicial process so no additional evidence may be presented or considered outside of the public hearing but clarifying questions to materials submitted may be permissible.

- Chair Spoon confirmed this school and the other light industrial use has coexisted for several years without any issues. Mr. Sullivan said that is correct, and the industrial use that was in the building is no longer in the facility. The other unique thing about this location is it has a highly specialized wastewater system so there is limitations with that and there are fire code limitations as well. Even if we as the county say a use is allowed, but the applicant cannot meet the fire and building code requirements then they cannot locate in the facility. Mr. Sullivan said this building is inspected on a regular basis from the Fire Marshal's office because of the business uses.
- Mr. Smith asked if the school was separated from the rest of the site and are the employees that work in the rest of the site vetted with a background check? Mr. Sullivan said yes, each section is divided into a condominiums, even though it is one building, it is still separated. Mr. Sullivan said he does not know if everyone in the building receives a background check.
- Vice-Chair Roodkowsky asked if the condominiums are completely separated or do they share washroom facilities? Ms. Beth Kuklinski, the applicant and owner of the Jordan Lake School of the Arts said the school has their own washroom facilities and the maximum capacity of students can only be 32 due to fire code. Ms. Kuklinski also said that this building is highly regulated as well and she is currently the Vice-Chair of the Business Partners Association and they review all applications for space in the building.
- Chair Spoon asked if the school were to recruit a new company to locate at this site, would there be assurances that the company use would not cause excessive noise or fumes that would interrupt the school. Ms. Kuklinski said there is a stringent application process that has restrictions in place and the school would be very selective for the tenant of the space.
- Ms. Haddix asked for some more clarification as to how the building is laid out and the separation between the uses. Ms. Kuklinski said that the building is separated into three condominiums, there is one wing that was performing some manufacturing which was separated and used their own washrooms, so there was no interaction with them. This company has gone out of business and that space is available. Ms. Kuklinski said she had been reading all of the documentation with regards to the building and that is where she discovered this stipulation and immediately came to the county to rectify it. Ms. Haddix asked if it is a private school and is there oversight from the Department of Education. Ms. Kuklinski said yes, this is a private school and the Department of Public Instruction is the regulation authority.

- Mr. Mayer said we do not want a light industrial use that has something dangerous, toxic, explosive, or loud to be located near this school. What is the application process like and how do we make sure disruptive uses are not going to come into the space. Ms. Kuklinski said in the document we are asking to be revised there is a great deal of restriction included. It is very specified in the uses such as tanning because we are right on that watershed, the uses cannot have much waste. Also, because of the recycled water system we only use Simple Green and organic products for cleaning because we cannot let anything contaminate the water system. With that reason the uses are highly limited and due to the restrictions it would need to be a small operation. Mr. Mayer said, so whatever the light industrial use will be, they will not have the capacity to wash and process different kinds of chemicals because of the system. Ms. Kuklinski said that is correct and they will not pass the application process if they have a use like that. No business can come in and negatively impact the existing businesses by our board.
- Mr. Frazier said he asked to pull this item from consent because he did not know if he had enough information to make a recommendation. In a quasi-judicial proceeding, we can only make a recommendation based on sworn testimony at the hearing. Mr. Frazier said he listened to the public hearing, and he heard things tonight that makes everything seem okay, but none of that was spoken at the public hearing. The only information that was given at the public hearing is there was no record as to why the condition was set in place. There was a representative from the school system at the hearing and they were not asked to speak. Mr. Frazier said he is not sure what to do. Mr. Sullivan said we need to understand that we are in this transition period where the role of the Planning Board as it is currently in our regulations is in direct conflict with the state statutes.
- Chair Spoon said that is correct we are in a transition period and soon we will see the application first and we will be able to make recommendations based on the evidence we hear, but what we heard tonight can make us more comfortable with our recommendation, but the BOC will need to make their decision as to what is on the record. Mr. Frazier said he is not sure if we should make a recommendation. Ms. Haddix said she had the same concerns as Mr. Frazier, but the good news is that the Department of Public Instruction was at the public hearing and they did not have an issue with it. Mr. Frazier said if they would have said that at the hearing we would not have an issue.
- Chair Spoon said he would be inclined to removing the stipulation and asked if anyone would be interested in making a motion.

Motion made by Ms. Haddix to approve the Special Use Permit revision to remove Condition No. 5 from the original approval which prohibits schools from locating in the facility when there are any industrial uses operating at the same time. The motion was seconded by Ms. Robertson. There was a vote and the item was approved 6-2, Mr. Smith and Mr. Frazier abstained.

- Mr. Sullivan said we have been working with the UDO consultants on the S.U.P. process and the process and you know it know will go away. The uses that are special uses now will become conditional district uses, so they will go through a legislative process instead of the quasi-judicial process. After the UDO is adopted the Planning Board will have a formal role in making a direct recommendation to the BOC. The process will be that the rezoning item will come before the Planning Board first and then it will move to the BOC for the public hearing and if the commissioners want to make a decision at that meeting they can or move it to the next agenda for further discussion.

2. A legislative public hearing requested by Drafting and Design Services, Inc on behalf of BOHG Financial, LLC, to rezone Parcel 5132, located at 4133 Old US 1, being approximately 1.331 acres, from R-1 Residential to General Use Neighborhood Business (NB), Cape Fear Township.

Mr. Sullivan said a legislative public hearing was held June 17, 2024. Planning staff presented the request and no additional comments were provided. 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 by right or require a special use permit. Uses listed as SUP³ are permitted uses by right if connected to public water and sanitary sewer. However, due to possible limitations such as wastewater capacity, access to public utilities, built upon area 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.** No errors in the Ordinance are being claimed.
2. **The changed or changing conditions, if any, make the proposed rezoning reasonably necessary.** The adjacent 193-acre parcel 5585, was rezoned to Light Industrial in 2022 as well as parcel 5588 to Neighborhood Business. This parcel could also be utilized to provide smaller scale supporting services to the area where growth in non-residential development is planned. Due to the other rezonings in this area, it is no longer suitable for residential use. Although the commercial suitability map in Plan Moncure does show this just outside commercial suitability, due to the rezonings adjacent to this parcel, commercial use would be more consistent.
3. **3.The manner in which the proposed rezoning will carry out the intent and purpose of the adopted Land Use Plan or part thereof.** The land use plan shows this parcel within the Rural designation and Plan Moncure has it within an Employment Center designation.

Page 14-Economics and Growth- encourages supporting commercial uses to be located within Employment Center designated areas. With the rezonings of several parcels in this area in the past two years, small scale commercial will provide that opportunity. Page 18-Land Use- designates these growth areas employment opportunities for residents and commercial use needs within a centralized area. This helps to ensure the heavy residential areas remain rural. Page 39-Goals- Goal 4 is met by providing additional jobs in the support industry of the manufacturing type uses.

4. **Other factors/reasons for supporting the rezoning request.** Old US 1 can support 14,000 vehicles per day. In 2020, the ADT was 3,700. The proposed rezoning of this parcel could generate 300-400 vehicular trips per day keeping the use well below the allowable capacity. Landscaping, lighting, signage, and parking will comply with the zoning ordinance minimum requirements.
5. **All other information required on this application or as offered by the applicant in support of the request.** The property will have access to the county water system. On-site private septic is planned to be utilized with a projection of 2,900 gpd needed for peak build out. The property is located within the WSIV-Protected Area watershed not within the Jordan Lake buffer area. Up to a maximum of 36% built upon area without curb and gutter can be utilized for development of the site.

Per FEMA map 3710969800J dated 2/2/2007, there are no floodable areas on the parcel.

The residence and other buildings on the parcel are to be removed. Proper abandonment of any existing septic and/or well will be permitted through the county Environmental Health Department. There are no streams on this parcel per the below NRCS and USGS maps.

Mr. Sullivan said 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:

- This rezoning is consistent with Plan Moncure by being located within an Employment Center node that encourages a mix of uses being office, industrial and supporting retail and industrial uses.
- Chair Spoon asked if the residents from the two residential parcels to the north of this proposed parcel had any comments or concerns. Mr. Sullivan said no, we mailed letters to adjoining property owners, posted a sign, and ran a legal ad in the newspaper and we have not heard from anyone. Chair Spoon said the parcel to the south of the proposed parcel, that does not have a house located on it. Mr. Sullivan said that is correct and the billing address is a different mailing address because it does not have a house located on it.
- Mr. Sullivan reminded the board they do have three meetings to make a recommendation if they feel like they need to speak to the applicant, who is not present tonight. If the board does want to move forward with a recommendation a consistency statement has been provided.
- Chair Spoon said in the past year we have rezoning the light industrial parcel behind this proposed parcel and the other parcel was rezoned as neighborhood business, which is the same owner, Because of His Grace. All of these parcels are located in the employment node for Plan Moncure and will most likely be more and more rezoned for those uses in the future. Chair Spoon said it is up to the board if they would like to move forward or wait to discuss further with the applicant. There has not been any comments or concerns from the community in writing or in person regarding this application.

Motion made by Ms. Haddix to approve the consistency statement, "This rezoning is consistent with Plan Moncure by being located within an Employment Center node that encourages a mix of uses being office, industrial and supporting retail and industrial uses." Seconded by Vice-Chair Roodkowsky. There was a vote and the consistency statement was approved 8-0, unanimously.

Motion made by Mr. Smith to approve this rezoning item, seconded by Mr. Frazier. There was a vote and the item was approved 8-0, unanimously.

VIII. NEW BUSINESS:

IX. BOARD MEMBERS ITEMS:

1. Update from the Planning Board liaisons.

- Chair Spoon said the UDO subcommittee did not have a meeting, but we are anticipating a meeting in either August or September to review the final draft of the UDO.
- Chair Spoon said that Mr. Mayer has volunteered to be the Agriculture Advisory Committee liaison.
- Ms. Robertson said she was able to briefly skim the Pittsboro remote meeting, and they seem to have a lot going on right now.

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

The Board discussed and agreed the August meeting will be held in person at the Chatham County Agriculture & Conference Center.

X. PLANNING DIRECTOR'S REPORTS:

Mr. Sullivan reported on the following:

1. Minor Subdivisions / Exempt Maps - See Attachments.

2. Unified Development Ordinance Update.

- Mr. Sullivan reminded the board about the Planning Board special meeting on July 16th for the UDO module 3 presentation from the UDO consultants.
- There will be a rezoning item and a first plat subdivision item for the August agenda. The first plat will require a site visit.

XI. ADJOURNMENT:

Motion made by Mr. Smith and seconded by Mr. Mayer. There being no further business, the meeting was adjourned at 7:02 p.m.

Signed: _____ / _____
Jon Spoon, Chair Date

Attest: _____ / _____
Dan Garrett, Clerk to the Board Date