



Chatham County, NC

Legislation Text

File #: 21-3681, **Version:** 2

Vote on a request to approve a legislative 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.

Action Requested:

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Introduction & Background:

A public hearing was held on February 15, 2021. Planning staff, Brendie Vega, representative for the property owner, Jason Kaplan, property owner, and Sam Rauf presented the item.

Donald Brown, a nearby property owner, voiced his concerns about the request for more industrial zoning and wanted to know why it was not done previously in 2018, what to expect, and had questions about the road.

Commissioner Dasher asked if his property was adjacent to the properties requested to be zoned, and they are not. He made the statement that these properties have been within the Moncure Megasite area since its inception.

Commissioner Howard asked where Mr. Brown's properties are in relation to the rezoning request. Staff displayed where Mr. Brown's properties are in relation to the request. They are about 1.3 miles south of the closest rezoning request off Moncure Flatwood Road.

Brendie Vega stated that their main goal is to set up the site to be more marketable. Sam Rauf gave input on behalf of the Economic Development Corporation that they are in support of the rezoning.

These properties are zoned IND-H, Heavy Industrial, and R1, Residential. The initial rezoning of the properties was approved on June 18, 2018 for 1670.45 acres to be zoned IND-H, Heavy Industrial. This area is identified as suitable for industrial use and is located within the Moncure Megasite Employment Center. The rezoning request is to rezone an additional 7 parcels, totalling 249.036 acres, from a split IND-H and R1 zoning, and R1 zoning, to IND-H, Heavy Industrial.

There are over 50 adjacent properties to the rezoning request. They include zoning districts of R1,

Residential, IND-H, Heavy Industrial, and CU-IND-H, Conditional Use Heavy Industrial (McGill-Merry Oaks Composting Facility | McGill Environmental Systems).

Discussion & Analysis:

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.

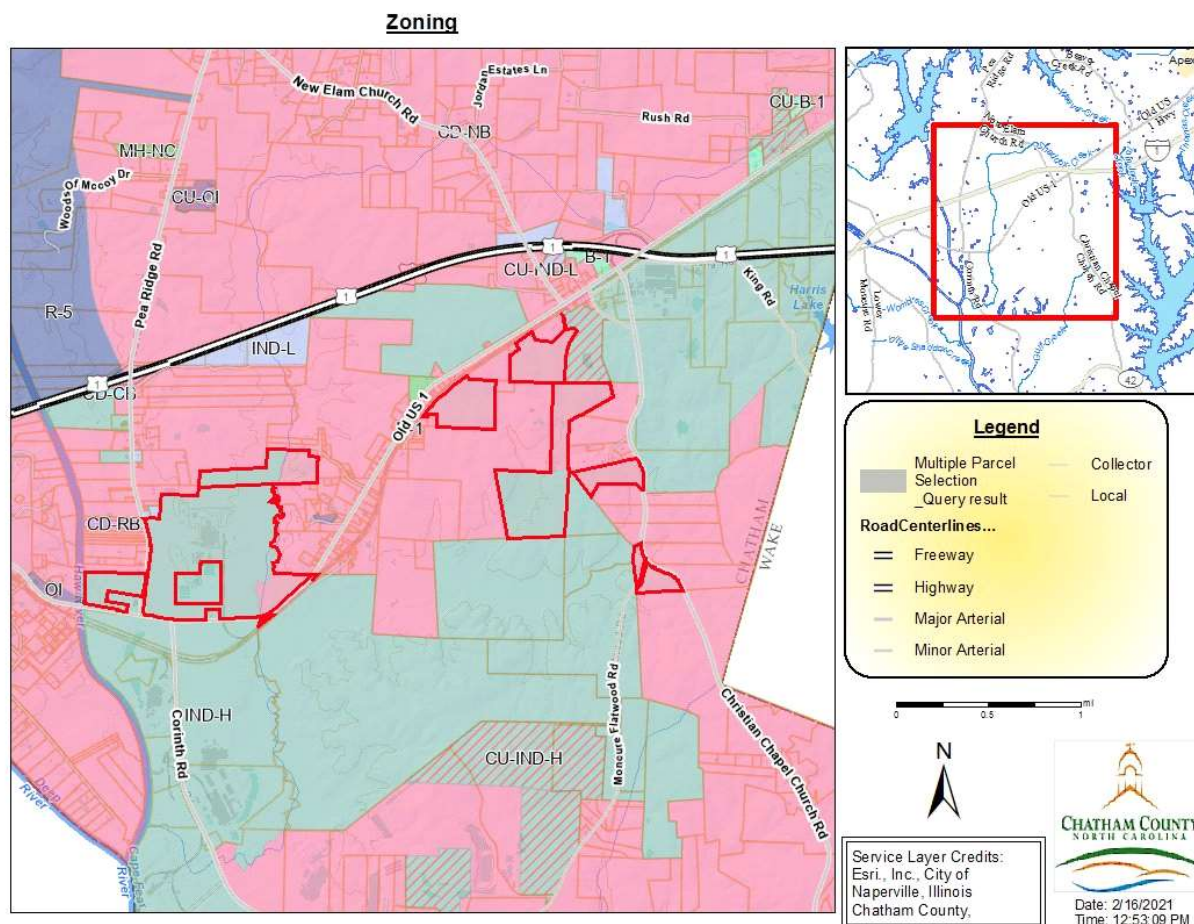
It is the planning staff opinion that this standard has been met.

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.

The following map shows the current zoning and the areas surrounding the parcel.



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).

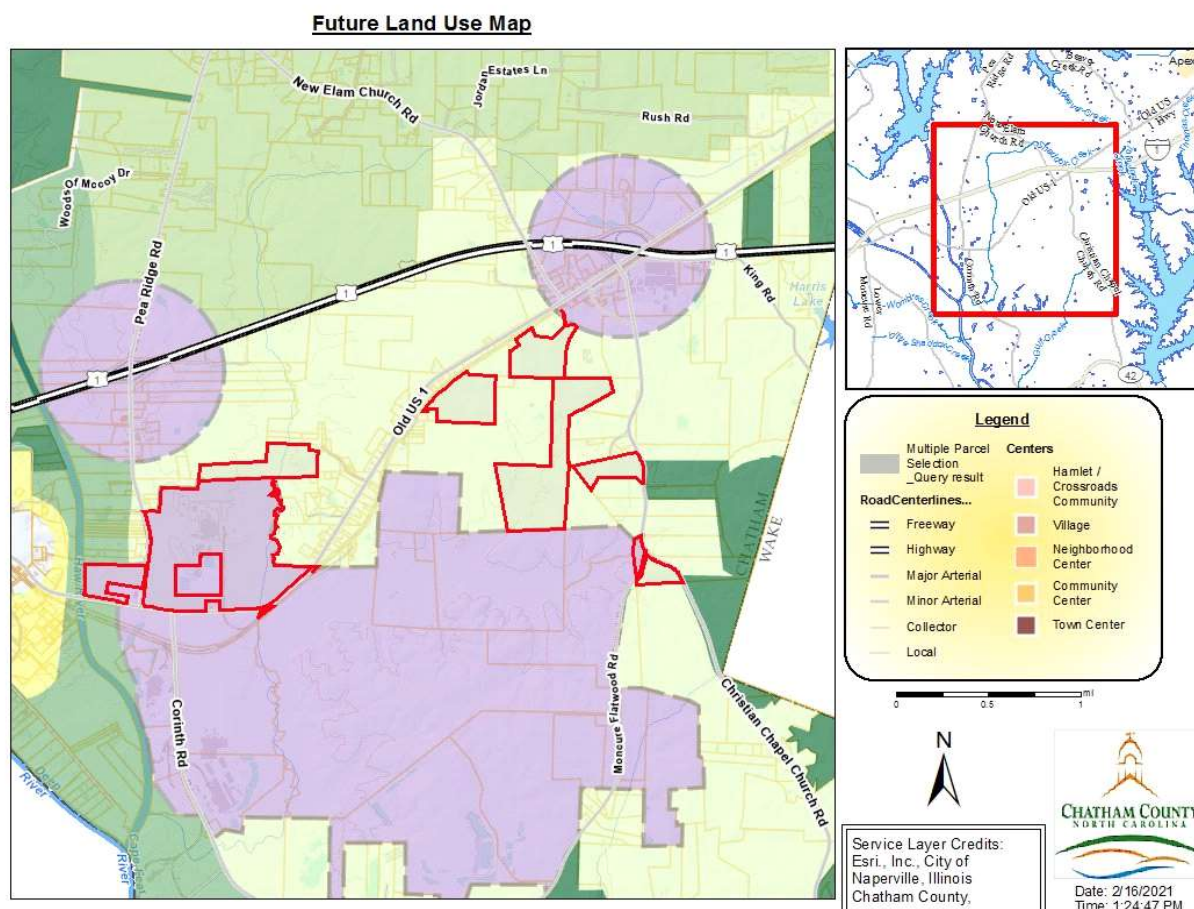
These properties are within, or within close proximity to the Employment Center identified on the Comprehensive Land Use Plan Map.

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.

The following map shows the Future Land Use Plan Map.

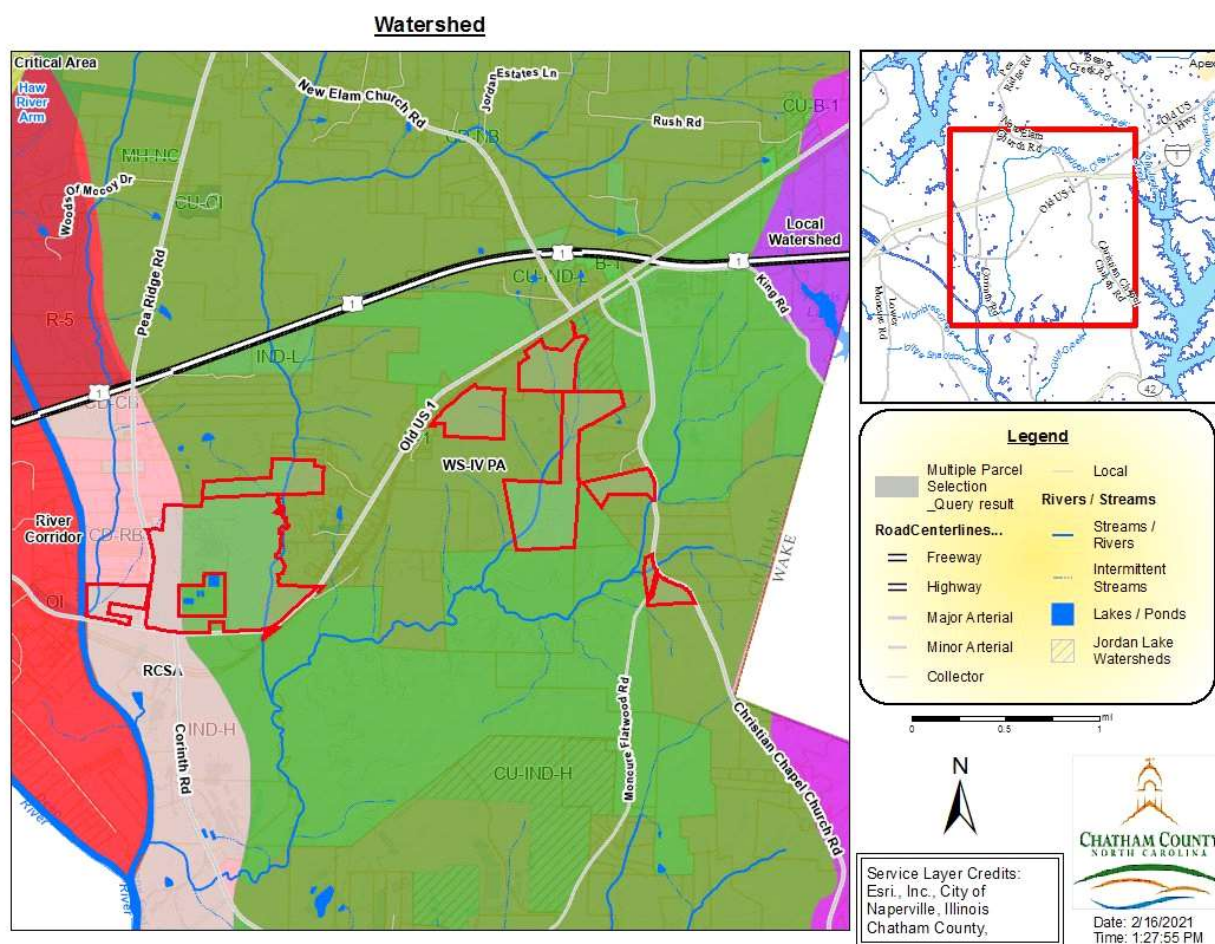


4. **List all other circumstances, factors, and reason which the applicant offers in support of the proposed amendment.** There is no proposed tenant with this request, but once a developer is interested, all regulations will be followed in accordance with what is required. The applicant states that 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.

The following map shows the watershed classifications.



- 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 Watershed Review 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.

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 <https://www.chathamcountync.gov/home/showpublisheddocument?id=37457>](https://www.chathamcountync.gov/home/showpublisheddocument?id=37457) 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 <https://static1.squarespace>](https://static1.squarespace)” 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 <https://static1.squarespace>](https://static1.squarespace) 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 <https://www.moncuremegasite.com/moncure-megasite>](https://www.moncuremegasite.com/moncure-megasite) (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 Watershed Review Board (WRB) met on March 11, 2021 to discuss the text amendments requested by the applicant. The board, by unanimous vote, tabled the discussion to April 8, 2021. The following was discussed:

The applicant 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 had 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, 50' buffer adjacent to intermittent and no buffer adjacent to wetlands or ephemeral streams. 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 held their second meeting on discussing the rezonings on April 6, 2021. Nick Robinson spoke on behalf of the applicant and their team and addressed concerns and gave further evidence as to why these properties should be approved for a rezoning. An email from Rachael Thorn, Watershed Protection director, was read to summarize what the Watershed Review Board had discussed. It stated that they “support[s] the amendment in that the main element of the proposed change is the map overlay which has clear advantages over the existing map area”. The additional items to review are how to administrate these special intensity allocations and the 10/70 rule allocations. Also introduced was a letter from the Chatham Economic Development Corporation which encouraged a recommendation for approval and refers to this zoning request as “extremely important item to address”.

Vice-Chair Lucier had stated he wanted to see stream delineations and Mark Ashness responded that there has been a consultant that has looked at the vast majority of the property and had done mapping, and not everything has been reviewed by agencies. It was stated that all of the parcels are intended to be subdivided, which would then require a riparian buffer review and therefore delineate the streams and any other water features. It was stated that with the nature of the market, companies are looking to purchase 10-15 acre size lots. Other members stated some of these lots are 23-50 acres and there is a potential that these will not be subdivided, and therefore will not require a riparian buffer review.

Parcel 5604 is not contiguous to other parcels, but has rail access which is very promising for transporting materials. This will avoid additional traffic on the roads. Parcel 5620 also has rail access. Members stated that there are multiple water features across 5620 and 92449 and there would be a large number of proposed crossings.

Chair Spoon understands the concerns but also realizes that there needs to be a tax balance. He also wishes to protect water features, but is going to depend on us having a tax base that provides us with enough resources to do that, and at this point the residential taxes do not pay for themselves.

Concern was raised about the existing residences being impacted by future industrial development. Scope creep is another as the proposed properties are not explicitly within the Employment Center node of the Comprehensive Land Use Plan, but are within close proximity. Mr. Robinson reiterated the findings in the rezoning application and that the decision should be based upon the findings being

met.

Applicant and landowner Jason Kaplan mentioned the sewer project that had been approved to support the Moncure Megasite. It was an oversight that not all of the parcels had been fully zoned to an industrial district when this was done.

The board voted 5-4 in favor of voting on the properties individually. The parcels were voted in chronological order and the results are as follows:

- Parcel 5321 - 4-5, denial
- Parcel 5604 - 6-3, approval
- Parcel 5620 - 4-5, denial
- Parcel 5814 - 6-3, approval
- Parcel 92449 - 6-3, approval
- Parcel 92883 - 7-2, approval
- Parcel 92884 - 5-4, approval

How does this relate to the Comprehensive Plan:

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).

Recommendation:

Recommendation for approval of an ordinance approving the rezoning of 5 parcels:

The Planning Board recommends by a vote of a majority of the board adoption of an ordinance to approve a legislative request by Brendie Vega, on behalf of Moncure Holdings, LLC & Moncure Holdings West, LLC, for a general use rezoning from R-1 Residential to IND-H, Heavy Industrial, Parcel No's. 5604, 5814, 92449, 92883, and 92884 being approximately 177.286 acres, located at Old US 1, Pea Ridge Rd, Christian Chapel Church Rd, and Moncure Flatwood Rd.

Recommendation for approval of a consistency statement resolution approving the rezoning of 5 parcels:

The Planning Board recommends by a vote of 6-3 for parcels 5604, 5814, 92449, 92883, and 92884 to be approved with the following consistency statement:

The rezoning in whole, or portions, of 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).

Recommendation for denial of the rezoning of 2 parcels:

The Planning Board recommends by a vote of the majority of the board to deny the request to rezone parcels 5321 and 5620 from R1, Residential to Heavy Industrial.

Recommendation for approval of a consistency statement resolution that the rezoning of 2 parcels is inconsistent with the comprehensive plan:

The Planning Board recommends by a vote of 5-4 for parcels 5321 and 5620 to be denied, with the following inconsistency statement:

The rezoning of parcels 5321 and 5620 is not consistent with the Comprehensive Land Use Plan of Chatham County by encouraging growth in designated Employment Centers, towns, and other appropriate locations (page 55). Heavy industry is inappropriate for parcels 5321 and 5620 because of the inadequate protection of natural resources.