



**CHATHAM COUNTY  
BOARD OF COMMISSIONERS  
AGENDA ABSTRACT**

ITEM NUMBER:  
MEETING DATE:  
4-19-04

**PART A**

**Subject:** Amendments to the Chatham County Zoning Ordinance, Subdivision Regulations and Watershed Protection Ordinance incorporating the Chatham County Compact Communities Ordinance.

**Action Requested:** See Recommendations.

- Attachments:**
1. E-mail dated February 18, 2004 from Ben Hitchings concerning wastewater operating bond.
  2. Section 6.1 Location- revised to reduce area and address access
  3. An Ordinance Amending the Zoning Ordinance of Chatham County
  4. An Ordinance Amending the Subdivision Regulations of Chatham County
  5. An Ordinance Amending the Chatham County Watershed Protection Ordinance

**Submitted By:**

  
Keith Megginson, Planning Director

4/8/04  
Date

**County Manager Review:**



Charlie Horne, County Manager

4-8-04  
Date

**This abstract requires review by:**

- County Attorney** \_\_\_\_\_  
Date Reviewed
- Finance Officer** \_\_\_\_\_  
Date Reviewed
- Budget Officer** \_\_\_\_\_  
Date Reviewed

## PART B

### *Re: Compact Communities Ordinance*

**Introduction & Background:** A joint public hearing was held on the Compact Communities Ordinance March 23 and approximately 34 people spoke. The written comments received were provided to the clerk during the meeting. I have reviewed my notes from the hearing and the written comments. From my review I could not find any specific comments on the following three attached text amendments: An Ordinance Amending The Zoning Ordinance of Chatham County; An Ordinance Amending The Subdivision Regulations of Chatham County; An Ordinance Amending The Chatham County Watershed Protection Ordinance. The Planning Board discussed the public hearing draft Compact Communities Ordinance during their meeting April 6 and made a recommendation, which is provided below.

**Discussion & Analysis:** The following five paragraphs are copied from the notes to the Planning Board for their April 6 meeting:

" I will not attempt to address the individual comments received. It is up to the Board members to review them and evaluate their merits. Many of the comments address issues the Planning Board has discussed previously at length. Some comments support existing language within the proposed CCO and some comments recommend changes. There are a few general and individual issues that I will discuss. Many speakers discussed the maximum number of units and separation distance of compact communities. Several recommended a maximum number of 1,500 dwellings. To put this in perspective Ferrington is approved for 1,602 dwellings, Governors Club for 1,830 dwellings, and when the Buck Mt. Lands are completed it will have about 1,400 dwellings. Ferrington has a gross density of 1.73 dwellings per acre. The Briar Chapel lands are approximately 1,600 acres and at the maximum of 2,500 dwellings the density would be 1.56 dwellings per acre. Some of the surrounding subdivisions of Polks Landing and Chatham Development have densities of a little more than two dwellings per acre. The existing zoning district of RA-40 allows 1.09 dwellings per acre. Therefore with 1,600 acres in Briar Chapel the theoretical number of dwellings, not excluding floodable areas, wetlands and other deductions, is 1,744 dwelling units. When separation distances were discussed previously it was the staff recommendation that the Board have a designated goal they were trying to achieve by having a separation distance. It may make more sense to have adjacent compact communities using the same infra-structure than have developments separated by some set distance but have the same impact because the traffic will travel the same roads and children will be in the same school district. Public input addressed the issue of the waiver in Section 15. It is the staff position that this is a legal and Commissioners' policy issue that is most appropriately addressed by the Commissioners and their legal counsel.

**Re: Compact Communities Ordinance**

**Discussion & Analysis – con't** Two speakers suggested that Section 12.1 Commercial component be revised to include a maximum building size of 50,000 or 55,000 square feet to discourage mega-stores. The Harris Teeter approved in the Chatham Downs Shopping Center is proposed to be 45,000 square feet. Staff is not familiar with the trends of store sizes. Like with the separation distance issue addressed above if the Board can express the underlying interest of why large stores are not desired then regulations may be formulated to address said issues. If the concern is the appearance from the highway then instead of limiting the size it may be addressed with screening or the façade of the building. This may also be addressed without having a specific regulation but through the conditional use permit itself.

Appearance Commission members Sue Schwartz, and Martin Spritzer suggest that Section 12.4 be revised to clarify that a master landscaping plan is to be reviewed by the Appearance Commission. This appears to be a reasonable revision that staff supports.

Section 12.3 Moderately Priced Dwellings addresses providing said housing. The income limit established is no greater than sixty percent of the Area Median Family Income. Chatham Habitat for Humanity has requested that the ordinance ensure that homebuyers earning 50% or less of the median income be included. The ordinance does not presently require this lower level of affordability. Jeffrey Starkweather submitted a map showing the median value of owner occupied homes in Chatham County according to the 2000 census and suggested that the ordinance require that any off-site affordable housing be within five miles of the development in Chatham County.

Ray Greenlaw provided numerous comments. The Board may want to consider revising the title of Section 7.2 to be more descriptive and inclusive by naming it "Wastewater Management System". The Financial Guarantee section addresses assurances for completion of the facilities not long-term operation and maintenance. From my memory this second concern was addressed by the NC Utilities Commission bonding or would be the responsibility of the utility and/or homeowners association, not the County. Attached is a February 18, 2004 e-mail from Ben Hitchings, which addresses this issue."

During a recent Board meeting there was some discussion about methods to address the citizen concern that there would be numerous compact communities in the same area and that such would have adverse impacts. Staff has taken the liberty to revise Section 6.1 D. (see attachment) by reducing the area within which a compact community may occur. The areas east of US 15-501 and south of Andrews Store Road are reduced. Section 6.1 C is also revised to require at least one access from a four-lane road. These two things combined may address citizens' concerns. Such concerns may also be addressed by simply not approving requests that the Board thinks have unacceptable adverse impacts.

The other issues listed above from the Planning Board notes may be addressed either by revisions to the ordinance or by specific conditions the Board may place on any approval of a development request.

The waiver issue is considered by staff as a policy and legal issues for the Board to address.

**Budgetary Impact:**

**Re: Compact Communities Ordinance**

**Recommendation:** The Planning Board voted on two motions concerning this issue. A motion to recommend approval of the draft ordinance as presented at the public hearing resulted in a 5-5 tie. One Board member was absent from the meeting. A motion to recommend approval of the public hearing draft without the waiver provision of Section 15 passed by a vote of 6-4.

The compact community ordinance would result in revisions to three existing Chatham County land use regulations i.e. zoning, subdivision and watershed. Watershed Ordinance revisions are required to be approved by the Water Quality Committee of the North Carolina Environmental Management Commission. The Committee cancelled its most recent meeting so the earliest they could act on the county's revisions is during their meeting scheduled for May 12. The Board has expressed an interest in adopting the Compact Communities Ordinance and associated other ordinance amendments on April 19. The Board may adopt revisions on said date but the effective date of the ordinance should be established as the date of approval by the Water Quality Committee of the Environmental Management Commission.

**Keith Megginson**

Re: CCO

**From:** "Ben Hitchings" <benh@tjcog.org>  
**To:** "George Lucier" <lucierg@msn.com>; "Charles Eliason" <charles@absoluteland.com>; "Keith Megginson" <keith.megginson@ncmail.net>  
**Sent:** Wednesday, February 18, 2004 5:45 PM  
**Subject:** Wastewater Operating Bond

George, Charles, and Keith,

At the Planning Board meeting on Feb. 10th, George asked me about maintenance bonding for the wastewater treatment system. Often, new developments using private wastewater treatment systems fall under the jurisdiction of the Public Utilities Commission and have to post an operating bond. However, just to be sure I checked my research and followed up with Andy Lee at the Public Utilities Commission. I left a message for him last week and was able to get through today. It appears there are circumstances in which the systems aren't covered, and in which the County may want to consider establishing its own operation and maintenance bond. Here are the details.

The Public Utilities Commission regulates private investor-owned utilities that have captive customers. The PUC grants these utilities a monopoly in return for rate restrictions and other regulations. Public utilities such as the Chatham County water system are not subject to PUC regulations.

If a new development is served by a private utility, then it is subject to the PUC regulations. These include a provision for the filing of an operating bond sufficient to pay for an emergency operator who can fix a malfunctioning system. The details of this bonding requirement are laid out in North Carolina Utilities Commission Rule R10-24 -- Bonds (go to <http://www.ncuc.commerce.state.nc.us/ncrules/chap10.htm>; then scroll down to Rule R10-24).

However, by PUC definition, bona fide Homeowners Associations (HOA) that only provide their own members with utility service are considered public utilities, and are therefore exempt from PUC regulations. In general, the PUC only considers an HOA to be "bona fide" if its members have equal voting rights and elect their own officers, thereby giving them the ability to influence the policy and practices of the entity that is running the utility system. As we know, developers often maintain control of the HOA in the early stages of a development. In these cases, the members of the HOA don't all have equal voting rights, so Mr. Lee told me that the PUC would generally not consider the HOA to be "bona fide", thus making it subject to PUC regulation.

However, once the developer transfers the HOA over to the residents of the development, then it would generally be considered bona fide in the eyes of the PUC, and so would henceforth be exempt from PUC regulation and bonding requirements.

The upshot is that the County may want to consider requiring an operating bond for all wastewater treatment systems that aren't regulated by the PUC. Since the need for such a bond only becomes greater as the wastewater treatment system ages, the County may want to consider making it an ongoing requirement. The PUC sets the amount of its required bonds based on a number of factors laid out in Rule R-10-24. PUC staff indicated that the general intent is to bond the systems in an amount sufficient to pay an emergency operator to come fix the system if it breaks down and the private utility goes out of business. HOAs would presumably not face this same issue, but there might be instances when an HOA couldn't afford emergency repairs in the short term until it had a chance to assess its members. In such cases, a bond conceivably would provide the County with a resource to tap to help cover such repairs. Another option might be to require the HOA to maintain a base operating reserve for such emergencies. Keith, Bob Gunn, Steve Talbert, and/or others may have some additional thoughts on this issue and what might work best for the County.

Yours,  
 Ben

Ben Hitchings, AICP

4/1/2004

## 6.1 Location

Ke:  
CCO

Compact communities shall only be allowed in areas that meet all of the following conditions:

- A. Currently zoned for RA-40 Residential-Agricultural;
- B. Designated as either:
  - WSIII – BW (Balance of Watershed)
  - WS IV – PA (Protected Area)
  - Local Watershed Area (LWA);
- C. Have at least one access point from a four-lane arterial; and
- D. Are located within the portion of Chatham County that is:
  - Bounded by U.S. 15-501 on the east, Andrews Store Road on the south, and Mann's Chapel Road on the west and north; and
  - Within 1,400 feet of U.S. 15-501 on its eastern side, and is south of the U.S.15-501 intersection with Jack Bennett Road (SR 1717) and north of the U.S. 15-501 intersection with Village Way (SR 1718); and
  - Within 2,500 feet south, east and west of the intersection of Andrews Store Road ( SR 1528) and Parker Herndon Road (SR 1526).

Re:  
CCO

AN ORDINANCE AMENDING THE ZONING ORDINANCE  
OF CHATHAM COUNTY

BE IT ORDAINED by the Board of Commissioners of the County of Chatham as follows:

1. That Section 4 entitled "Districts Established" be amended to include as a zoning district the following:

"CU-CC Conditional Use – Compact Community

A compact residential development with a mixed commercial use village center with a conditional use permit required as a prerequisite to any use or development, as provided in the Compact Communities Ordinance."

2. That the preamble to Section 5 be deleted and in lieu thereof, the following be inserted:

"It will be noted that a conditional use district (bearing the designation CU) corresponds to each of the general purpose zoning districts and to the compact community district as authorized in this ordinance."

3. That Section 7.2 entitled "Definitions" be amended to add the following:

"Compact Community. A compact residential development with a mixed commercial use village center with a conditional use permit required as a prerequisite to any use or development."

4. That a new Section 10.8 be added to read as follows:

"Section 10.8 CU-CC                      Conditional Use Compact Community

The following use is permitted subject to obtaining a zoning permit from the Zoning Enforcement Officer.

A. Permitted Use:

Compact Community

B. Requirements:

The requirements for Compact Communities are more specifically set forth in the separate Compact Community Ordinance which is hereby incorporated herein by reference."

Re:  
CCO

5. That Section 8.9 be deleted and the following be substituted in lieu thereof:

“Section 8.9 Fees

Reasonable fees sufficient to cover the costs of administration, inspection, technical review, publication of notice and similar matters may be charged to applicants for zoning permits, sign permits, conditional use permits, zoning amendments, variances and other administrative relief. The amount of the fees charged shall be as set forth in the county’s budget or as established by resolution of the Board of Commissioners. Fees established in accordance herewith shall be paid upon submission of an application or notice of appeal.

Adopted this \_\_\_ day of April, 2004.

COUNTY OF CHATHAM

BY:

\_\_\_\_\_

Chair

ATTEST:

\_\_\_\_\_

Clerk



*Re: CCo*

AN ORDINANCE AMENDING THE SUBDIVISION REGULATIONS  
OF CHATHAM COUNTY

BE IT ORDAINED by the Board of Commissioners of the County of Chatham as follows:

1. That Section 2.3 be amended to add the following:  
"CU-CC Conditional Use – Compact Community

A compact residential development with a mixed commercial use village center with a conditional use permit required as a prerequisite to any use or development, as provided in the Compact Communities Ordinance."

2. That a new Section 9 be added to read as follows:

"Section 9 Compact Communities

9.1 Procedure.

All master plans, sketch designs, preliminary and final subdivision plans shall be reviewed and approved prior to recordation.

9.2 Required Information.

All applications for compact communities shall contain the information required by the separate Chatham County Compact Community Ordinance.

9.3 Standards.

All compact communities shall comply with the provisions of the Chatham County Compact Community Ordinance."

3. That a new Section 1.14 be added to read as follows:

"1.14 Fees

Reasonable fees sufficient to cover the costs of administration, inspection, technical review, publication of notice and similar matters may be charged to applicants for subdivision plat approval, variances and other administrative relief. The amount of the fees charged shall be as set forth in the county's budget or as established by resolution of the Board of Commissioners. Fees established in accordance herewith shall be paid upon submission of an application."

R: CCO

Adopted this \_\_\_ day of April, 2004.

COUNTY OF CHATHAM

BY: \_\_\_\_\_  
Chair

ATTEST:

\_\_\_\_\_  
Clerk

AN ORDINANCE AMENDING THE CHATHAM COUNTY  
WATERSHED PROTECTION ORDINANCE

Re: CCO

BE IT ORDAINED by the Board of Commissioners of the County of Chatham as follows:

1. That Section 302 (C)(2)(a); (E)(2)(a); and (H)(2)(a) be amended by adding to the end of the second sentence therein the following:

“or compact community.”; and

that Section 302 (C)(2)(b); (E)(2)(b); and (H)(2)(b) be amended by adding to the last sentence therein the following:

“or compact community.”

2. That a new Section 311 be added to read as follows:

“Section 311. Compact Communities

For approved compact communities, the provisions set forth in the Chatham County Compact Community Ordinance with regard to maximum density, built-upon areas, and stream buffers shall supplement the provisions hereof and in the event of a conflict, the most restrictive provision or the one which imposes the highest standard or requirement shall prevail, except as otherwise specified.”

3. That Section 601 entitled General Definitions be amended to read as follows:

“Compact Community - A compact residential development with a mixed commercial use village center with a conditional use permit required as a prerequisite to any use or development.”

Adopted this \_\_\_ day of April, 2004.

COUNTY OF CHATHAM

BY: \_\_\_\_\_  
Chair

ATTEST:  
\_\_\_\_\_  
Clerk