

### **Proposed Ordinance Amendment Section 10.13**

This proposed ordinance revision will modify the Table of Permitted Uses (Section 10.13). In 2016 an amendment to Section 10.13 required all these same uses to have a Conditional Use Permit (CUP) in the Industrial Heavy (IH) zone, with the exception of Coal and Coke Yards and Electric Power Generation which were also allowed in the Light Industrial (LI) zone with a Conditional Use Permit (CUP). The list includes uses with noxious potential with high impact to surrounding neighborhoods.

Unless a proposed use is shown in the county plan and is in an existing qualifying zone, a multi-step is required:

1. plan amendment (if necessary), a legislative approval; and
2. rezoning (if necessary) to IH or LI (a legislative approval); and
3. a Conditional Use Permit (CUP) (a quasi-judicial approval).

Zoning and plan amendment decisions are by hearing and majority vote of the County Board. Citizens do not have to be experts to present information in either case. A Conditional Use Permit (CUP), however, is quasi-judicial in nature and the decision is based on evidence (usually expert testimony) presented at the hearing. Unless a citizen is a credentialed there is little chance that their testimony can be relied upon by the County Board.

The amendment also proposes Natural Gas Compressor Stations, and Oil and Gas Exploration and Development only as Conditional Use Permits (CUP). However, these uses would be allowed in any zone. Amendments to requirements for Environmental Impact Statements (Section 11.3), and Conditional Use Permit Information (Section 17.9) are proposed to strengthen the CUP process.

### **As a result, the proposed regulatory system relies solely on the Conditional Use Permit (CUP) to control Oil and Gas Exploration, Development, and Operations.**

We need to look at this proposed system.

1. Some will argue that Electrical and Gas Distribution Systems are allowed in all zones. These are distribution systems, not generation systems. Electrical generation is regulated and confined to LI and IH zones with a CUP. Oil and Gas Exploration, Development, and Operations should also be regulated as an industrial use. It is a generator of gas supply which is later distributed.
2. The state by law has restricted counties from prohibiting Oil and Gas Exploration, Development and Operations. This in not any different than

other uses. Basically, the county has to allow places for all uses to include everything from sanitary landfills to XXX dance clubs. Oil and Gas Exploration, Development and Operations is another use that has to be allowed, but not everywhere.

3. In Chatham there are two bodies of water that must be protected from any incursion in, over, under or around them: Harris Lake and Lake Jordan. The gas shale layer lies beneath both lakes. Any act of Oil and Gas Exploration, Development or Operation that compromises these water bodies would be an unmitigated disaster for our community and cannot be contemplated. A stand-alone Conditional Use Permit system may be insufficient when considered for these lake environments.
4. These lakes are federally or utility owned and managed, and the likelihood of these entities allowing lake degradation is small but it is not nonexistent. An additional layer of complimentary protection offered by the county should be considered to eliminate any chance of oil and gas uses in this area.
5. Excluding the lakes and their environs does not exclude Oil and Gas Exploration, Development, and Operations in Chatham County. There are shale deposits elsewhere.

Two additions to this amendment could strengthen the proposal:

1. Change the Table of Permitted Uses to allow Oil and Gas Exploration, Development and Operations in LI or IH zones only.
2. Create a Significant Waters Overlay Zone for Harris and Jordan Lakes where none of the uses listed in this amendment would be allowed. Any reasonable examination NCGS 113-415.1 (attached) would conclude that such an overlay zone would not be overturned.

Jim Elza

9-25-18

*need more  
time for  
commenting*

*Need EIA to  
Protect health,  
prop, environ.  
Health Impact  
Assessment  
↑  
Do this?*

Chatham County BOC Meeting on October 15, 2018  
Comments at Hearing to Amend Zoning Ordinance sections 10.13, 11.2, 11.3, and 17.9  
Martha Girolami  
919-621-1087

**In Section 10.13**

More definitions of terms are needed.

Suggested Additions: These industrial activities are associated with oil and gas development.

Gas storage

Plastics manufacturing

Add to oil and gas exploration and development, the terms gas processing and production.

Helium processing/purification plants

Small scale liquid natural gas plants (LNG)

Suggested Requirement: All oil and gas activities and compressor stations restricted to IL and IH.

**In Section 11.2**

Methane plus Benzene, ethane, propane, radioactive materials, particulates etc. will be released and will cross property lines. These are noxious and hazardous. How will "such concentrations" be determined to be detrimental to public health and safety. "Such concentrations" needs definition and/or further study.

How will flaring be handled? Noise, light and air pollution impacts.

**Section 17.9**

Add a list of consultants that are acceptable to the County (maybe SELC can help put together a list). Choose a consultant from this list. (idea from S. Arata)  
Eliminate the last line "This section 17.9 is not applicable to an applicant for CUP for which an EIA is required by Section 11.3 of this Ordinance" ?

Could this be useful to keep for unanswered questions or inadequate EIA?

Suggested studies needed—blast zones around frack pad and industrial processing and storage equipment and fracking waste processing and waste disposal.

**Other Ideas:**

There are parts of the ordinance that could be broadened as other towns and counties have done.

Here are articles on concerns that could be added to our LUP/Zoning ordinance at some point.

1. **List Small Scale LNG plants** (Duke Energy's plan for gas storage instead of batteries for emergency Polar vortex days). These could be useful to DE when they don't have long distance gas pipelines and could be sited on the frack pad. This cryogenic technology is also used with fractional distillation in a Helium separation and purification plant. So add **helium processing/purification plants** to the list. Extracting Helium from natural gas is definitely under study by the NCGS and the OGC.

*Need to not  
be afraid to take  
your zoning needs to before  
the OGC - to fight  
pre-emption*

<https://news.duke-energy.com/releases/piedmont-natural-gas-to-build-new-liquefied-natural-gas-facility-in-north-carolina>

2. **Require a seismic testing permit** like they did in Oakmont in the article "Gas drilling company drops plans for seismic testing Oakmont".

<http://www.post-gazette.com/business/powersource/2017/07/14/gas-drilling-company-drops-plans-for-seismic-testing-in-oakmont/stories/201707140025>

3. **Ban/restrict drilling and fracking wastes.** This article "Fifty towns in Connecticut have now Banned Fracking Waste" is talking about Connecticut heading off becoming a frack waste dump (they don't frack in CT) from drilling and fracking wastes generated in nearby states (or counties).

<https://www.foodandwaterwatch.org/news/fifty-towns-connecticut-have-now-banned-fracking-waste>

4. The article entitled "Citizens to Protect Oakmont Comments on the Borough of Oakmont Proposed Oil & GAs Ordinance" has good ideas.  
**Requires a 10 year master plan for "build out" on oil and gas development sites.** You get to find out how wastes are handled and how big the plan/impacts will be.  
Also deals with chemical disclosure and ER—requiring a study to be the basis of an ER/ contingency plan.  
Requires Compressor Stations to be located only in an industrial zone.  
Promotes local governments to communicate on all permits and other notifications on all O&G activities.

[https://www.foodandwaterwatch.org/sites/default/files/2017\\_12\\_19\\_pdf\\_cpo\\_comments\\_on\\_proposed\\_zoning\\_ordinance1.pdf](https://www.foodandwaterwatch.org/sites/default/files/2017_12_19_pdf_cpo_comments_on_proposed_zoning_ordinance1.pdf)

Protections  
Army Corp Land  
Lake Jordan  
Harris Lake