



Chatham County Planning Board Agenda Notes

Date: December 4, 2018

Agenda Item: VIII-3

Attachment #: 2

- Subdivision**
 Conditional Use Permit
 Rezoning Request
 Other:

Subject:	A Legislative Public Hearing for a text amendment request for the Chatham County Zoning Ordinance, specifically Section 10.13 Table of Permitted Uses, Churches and other places of worship to be changed from P+ Permitted to be required to obtain an approved Conditional Use Permit in order to locate in R-1, R-2, and R-5 Residential zoning districts.
Action Requested:	See Recommendation
Attachments:	<ol style="list-style-type: none"> 1. Chapter 27, Regulation of Religious Land Uses, Chapter 27, Land Use Law in NC, Second Edition 2. Comparison of adjoining jurisdiction's regulation of churches and places of worship

Introduction & Background:

A legislative public hearing was held November 19, 2018 consider a citizen initiated text amendment to the Zoning Ordinance. The proposed amendment is to the table of permitted uses, specifically for churches and places of worship to require a conditional use permit in the three residential zoning districts instead of allowing them as a permitted use. The applicant presented the request and other neighbors who live on or near Hogan Farm Road were also present and spoke including Roland Cargill, Anne Fuller, and Scott Wilson. There were also several speakers who referred to their representative, Attorney Paul Messick, to provide comments on their behalf.

Section 19 of the Zoning Ordinance outlines the procedure for amending the ordinance and Section 19.1, Statement of Intent, reads: "For the purpose of establishing and maintaining sound, stable and desirable development within Chatham County this Ordinance shall not be amended except to correct an error in the Ordinance or, because of changed or changing conditions in a particular area or in the County generally, or to extend the boundary of an existing zoning district or to rezone an area to a different zoning district, or to change the regulation and restrictions of the Zoning Ordinance. These amendments shall be reasonably necessary to promote the public health, safety and general welfare and to achieve the purposes of the adopted Land Use Plan."

Discussion & Analysis:

The Table of Permitted Uses in the Zoning Ordinance includes “Churches and other places of worship” as a use which is permitted by right in all of the residential, business, and office & institutional districts. There are also additional requirements that apply to this use in residential districts that include a three acre minimum lot size, 50’ side and rear setbacks from property lines, and a 65’ front setback. If the text amendment is approved it would apply uniformly throughout the zoned areas of the county where the county has land use authority, which covers approximately 598 square miles.

During the public hearing the applicant stated the request was not about a “religion or religious organization”, but of concerns about safety with increased traffic in a residential area, noise, trash, lack of sidewalks to keep pedestrians safe, and special events that have the potential to bring up to 300 to 400 people into a small residential area. He commented that he understood the request would not help the residents on Hogan Farm Road and nearby areas of their current concerns with the place of worship that has recently opened in a converted single-family dwelling.

Additional concerns noted by other speakers were that a residential home was partially converted into a commercial space for a place of worship and the lot was created for residential use, not commercial. Comments also included that churches should be treated like any other commercial business so that neighbors in an area where someone wants start one would be given an opportunity to voice concerns and have some say in the process; zoning regulations are intended to protect public health, safety, and welfare; places of worship should be treated like any other public facility; and emergency vehicle access should be evaluated.

Attorney Paul Messick commented that the Religious Land Use and Institutional Persons Act of 2000 (RLUIPA), 42 U.S.C. 2000cc (<https://www.justice.gov/crt/religious-land-use-and-institutionalized-persons-act>) provides federal protections for religious uses and that no land use regulation can impose a substantial burden or discriminate against churches. He commented that the proposed amendment violates the law and that the burden of a conditional use permitting process with no standards leaves it open to discrimination. He also stated that churches are a private facility, not public, and that other uses such as schools are currently permitted in residential districts.

The Board asked staff if there were existing regulations regarding site plan approvals. Planning staff stated even though churches and places of worship are permitted in all zoning districts other than light and heavy industrial, site plan approval is required and must follow all the development ordinances and regulations such as minimum lot size, setbacks, parking, lighting, signage, etc. This would include all county departments involved in site development.

The Planning Board must also provide a recommendation on a consistency statement as part of the recommendation on the text amendment.

Recommendation:

The Planning Board has up to three meetings in which to make a recommendation of approval or denial on the text amendment application and a consistency statement to the Board of Commissioners.