



**Chatham County Planning Board
Approved Minutes
July 9, 2019**

The Chatham County Planning Board met in regular session on the above date in the Agriculture Building Auditorium, Pittsboro, North Carolina. Members present were as follows:

Present:

George Lucier, Chair
Caroline Siverson, Vice-Chair
Clyde Frazier
Cecil Wilson
Emily Moose
Gene Galin
Allison Weakley
Jamie Hager
Bill Arthur
Franklin Gomez Flores

Absent:

Jon Spoon

Planning Department:

Jason Sullivan, Planning Director
Dan Garrett, Clerk to the Planning Board

- I. INVOCATION AND PLEDGE OF ALLEGIANCE:
Mr. Galin delivered the invocation and afterwards everyone stood and recited the Pledge of Allegiance.
- II. CALL TO ORDER:
Chair Lucier called the meeting to order at 6:30 p.m.
- III. DETERMINATION OF QUORUM:
Chair Lucier stated there is a quorum (10 members were present, Mr. Jon Spoon was absent.)
- IV. APPROVAL OF AGENDA:
Approval of the Agenda - Chair Lucier asked the board members if there were any issues with the Agenda. There were no objections and the agenda was approved.
- V. APPROVAL OF THE MINUTES:
Chair Lucier asked for consideration for approval of the June 4, 2019 minutes with a few minor proposed changes. There were no objections by Board members and the June 4, 2019 minutes were approved. Motion was made by Vice-Chair Siverson to approve; second by Ms. Hager. Motion passed with a vote of 9-0, Mr. Franklin Flores did not vote because he was absent from the June Planning Board meeting.
- VI. PUBLIC INPUT SESSION:
No public input.

VII. ZONING:

1. A legislative public hearing request to consider amendments to the Zoning Ordinance to require a conditional use permit for assembly occupancies in residential zoning districts and revise the list of uses that are eligible for a height exception as recommended by the Planning Board.

Mr. Sullivan gave an overview of the staff notes and he stated that a legislative public hearing was held on November 19, 2018 to consider a citizen initiated text amendment to the Zoning Ordinance. The proposed amendment was 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.

In January 2019, the Planning Board, by a vote of 7-0 in favor of denial, recommended adoption of a resolution approving the following consistency statement: The text amendment to require churches and other places of worship to obtain a conditional use permit singles out churches and other places of worship and does not require the same standard for other assembly uses and would violate the Religious Land use and Institutionalized Persons Act. The request should therefore be denied due to inconsistency with the adopted Comprehensive Plan.

Mr. Sullivan also stated an additional motion was proposed by the Planning Board to request that the Board of Commissioners direct the Planning Department to develop performance standards for assembly uses in residential zoning districts and evaluate requiring a conditional use permit. This motion was approved by a vote of 7-0. In February 2019, the Board of Commissioners denied the text amendment application and directed staff to work with the Planning Board to evaluate options for establishing regulations for assembly occupancies in residential districts.

Research was conducted by planning staff to find comparable jurisdictions across the nation and evaluate their standards for places of assembly. Jurisdictions were chosen based on being similar in rural character, size (amount of land), and population. These jurisdictions were Wright County, MN; Napa County, CA; Benton County, OR; Pottawattamie County, IA; and Elmore County, ID. Also included were surrounding jurisdictions of Chatham County: Wake County, NC; Orange County, NC; Durham County, NC; and Cary, NC.

Mr. Sullivan continued saying at a regular scheduled Planning Board meeting held on April 2, 2019, members discussed different standards for assembly occupancies, which included general performance standards, conditional use permit requirement, a combination of both, and making no change. Suggestions on when a conditional use permit process will be required were as follows: project not located on a public road; waive/reduce application fees; traffic studies; threshold to trigger the conditional use permit process; and to keep daycare centers in the home for 15 or less children permitted by right. Several Planning Board members expressed concern that it would take considerable time to develop a list of performance standards and that work on the unified development ordinance will be underway soon.

It was mentioned more research would be needed, but that a conditional use permit process for places of assembly in residential areas can be used in the interim. The unified development ordinance will be able to clearly outline performance standards. Once the unified development ordinance is adopted, some or all places of assembly may be able to move away from the conditional use permit process. The Planning Board approved

a motion, by a vote of 9-2, in favor of implementing a conditional use permit process for places of assembly in residential areas, waive the fee for those uses in residential areas, and evaluate performance standards as part of the unified development ordinance.

Mr. Sullivan stated the Planning Board also discussed the provisions of Section 8.8, Height Limitation Exceptions, and recommended by a vote of 7-3 with 1 abstention to remove the term “monuments” from the list. After additional review, planning staff recommended to include removing the term “observation towers” for consistency if the amendment moved to a public hearing (see attachment).

The Board of Commissioners discussed the Planning Board recommendation during their May 20, 2019 meeting and voted unanimously to schedule a public hearing on June 17, 2019 to consider the following Zoning Ordinance text amendments:

- Amend Section 10.13, Table of Permitted Uses, of the Zoning Ordinance to require a conditional use permit for assembly occupancies in residential districts.
- Amend Section 8.8, Height Limitation Exceptions, of the Zoning Ordinance to revise the list of uses that are eligible for a height exception.

At the time the Commissioners take final action on the text amendments discussion will also include consideration of the following Planning Board recommendation – Consider waiving the conditional use permit application fee for assembly occupancies in residential districts until the unified development ordinance is adopted.

Mr. Sullivan continued stating a hearing was held on this item during the Commissioners’ June 17, 2019 meeting. Staff presented the request and no-one else provided comment. There was clarification that the height limit exceptions apply uniformly in any zoning district and allow specific uses to exceed to the maximum provided in the different zoning classification. For example, residential zoning districts have a maximum building height of 60’, but those districts also allow telecommunication towers through issuance of a conditional use permit. The height limit exceptions allow telecommunication towers to exceed the 60’ building height. It was also clarified that the proposed amendments only apply to areas of the county outside of the municipalities and their extraterritorial planning jurisdictions.

Mr. Sullivan said in closing the Planning Board has up to three meetings to discuss the proposed amendments and provide a recommendation to the Board of Commissioners.

If the Planning Board recommends approval or denial of the text amendment a recommendation on a consistency statement will also need to also be forwarded to the Board of Commissioners. The following consistency statement is provided for consideration:

The proposed amendments are consistent with the adopted comprehensive plan, Plan Chatham, under the Land Use Plan Element, Land Use Policy 5, Strategy 5.1 which reads “Encourage context sensitive development design. This type of design includes elements such as architectural features that resemble historical structures and local vernacular, site design that reduces impacts on historical structures, working landscapes and viewsheds from public roadways, integrated open space, and preservation of unique natural features such as heritage trees and mature forests.”

Board Discussion followed and some items discussed were as follows:

- Chair Lucier stated the Board is looking at a three part item tonight, one is requiring the CUP permit for Places of Assembly, second to waive the associated fees for the CUP permits in residential areas, and third to recommend performance standards be established as part of the Unified Development Ordinance. Chair Lucier stated if the Board is in agreement all three can be voted in one motion or they can be separated one at a time.
- Ms. Moose stated she thought that the CUP fee waiver was for churches, but it seems that the fee waiver will be applied to all uses. Mr. Sullivan stated the fee waiver was to be applied uniformly and the County Attorney will be looking at this closer as it approaches the BOC meeting. Chair Lucier stated that we can't treat churches differently because that would be a violation of Federal law.
- Mr. Wilson asked about the daycare use with 15 children or less. Mr. Sullivan stated daycares as a stand-alone use is already covered by a CUP permit, and this proposal will cover in-home daycare with 15 children or less in a residential area. It is currently permitted by right, but this will make it require a CUP.
- Mr. Sullivan stated from the fee waiver standpoint, there is some uses that are currently require CUP permits in residential areas and if the fee waiver is approved then they would be able to take advantage of the waiver. There was some Board discussion on the amount of fee waivers that might take place. If this were to be adopted the fee waiver would be temporary for a few years as the UDO was being constructed. Mr. Sullivan informed the Board that over the past few years there has not been many CUP permit requests. Chair Lucier stated that it should not be much of a loss of revenue for the County.
- Ms. Hager asked if the fee waiver item being voted on tonight would be approved or suggested. Chair Lucier stated it would be a recommendation. For example, a recommendation of a motion to require a CUP permit for places of assembly and to waive the fees associated with that CUP, plus recommend performance standards be established during the construction of the UDO.

Ms. Hager stated she is concerned that the CUP permit would be required, but then maybe the fee waiver not be approved along with it. She wants to make sure that the language in the recommendation clearly states that the CUP permit and the fee waiver are tied together.

Chair Lucier stated when the motion is made, it just needs to be clear that the CUP permit and fee waiver of the CUP permit are linked.

- Mr. Frazier stated in the agenda notes at the April Planning Board meeting, the Planning Board favored keeping the in-home daycare with 15 children and less permitted by rights. He wanted to know the reason for the change and will existing daycares be impacted. Vice-Chair Siverson stated existing daycares will be grandfathered. Chair Lucier stated he doesn't recall a vote on that topic. Mr. Frazier stated that there was not a vote, but some discussion.

Mr. Sullivan stated an in-home daycare is still an assembled occupancy and there could be issues with the federal statute if we left in-home daycares up to 15 children as permitted by right. Leaving it as permitted by right could introduce an avenue for a lawsuit that could be successful. Chair Lucier stated

because we would be treating places of worship differently than places of assembly. Federal law will not allow that and it will make the County vulnerable to a lawsuit.

- Mr. Galin asked Chair Lucier, Vice-Chair Siverson, and Mr. Wilson because of their years of service on the Planning Board, if there has been any other cases that they recall, except for the recent issue with the temple, of a place of worship coming onto a property causing issues. They answered no. Chair Lucier stated there have been some places of assembly issues, but they are normally a zoning request. Chair Lucier gave a few examples of rezoning request issues and stated they all had public hearings where neighbors were notified and able to speak about the rezoning.

Mr. Galin feels places of worship should be left as they are permitted by right and not require a CUP permit because there has only been one isolated issue. Vice-Chair Siverson stated there are several religious organizations presently looking or have bought land in the County and the Board is trying to be preemptive on this topic. Mr. Sullivan stated that he received an email from a citizen today asking how they can oppose a place of worship that is adjacent to their property.

Mr. Galin stated he had visited a temple in Chicago and explained that it was well laid out, spacious, with plenty of parking. He stated some people may be scared of a religion that they are not familiar with, but his concern is placing additional restrictions on places of worship.

- Chair Lucier stated he believes that if a place of assembly is going to be located in a residential area the neighbors should have a voice to be heard with their concerns. By making it a CUP process and waiving the fees so there is not a burden of cost, the neighbors will have the opportunity to express their options whether or not it is appropriate for their neighborhood. Chair Lucier stated the Planning Board and BOC need to take all input into account, just because someone doesn't want something near them isn't necessarily a valid excuse to deny the place of assembly. There needs to be some substantial concerns, it is up to the Planning Board and the BOC to evaluate those concerns to approve or deny the CUP request. Chair Lucier stated small places of assembly and small non-profit organizations will have people gathering and he believes most of the Planning Board would be agreeable to having that approved, provided there is not a substantial well thought out concern expressed by the Board or by neighbors.

Ms. Weakley stated there could be a safety or traffic concerns and the CUP process allows the Board to place conditions on the permit that addresses those concerns.

- Ms. Hager stated she appreciates Mr. Galin and his concern, but it is also the job of the governing body to filter out the difference between a legitimate concern on safety, traffic, or noise and a concern that someone might be afraid of something because they are not familiar with it. She is in favor of the CUP process because she wants people to have a way for people to express their concerns.
- Ms. Moose stated she appreciates Mr. Galin and his concerns as well, but she agrees with Ms. Hager. Churches are permitted by right in five other areas, we are just talking about residential areas for the CUP.

Mr. Wilson asked what the zones were for places of worship. Mr. Sullivan stated office and institutional business in the County. Anything that is not a residential use in a residential area will require a Conditional Use Permit.

- Mr. Wilson asked about the performance standards and what they will look like. Chair Lucier stated there was some discussion about public and private roads, but those will be incorporated into the UDO.

Vice-Chair Siverson stated this is a temporary recommendation for five years as the UDO is being constructed and performance standards will come into effect.

Motion made by Ms. Hager to approve this item. Motion was stated, a conditional use permit process for places of assembly in residential areas as referenced in section 10.13 Table of Permitted Uses, of the Zoning Ordinance presented at the public hearing, waive the conditional use permit application fee for those uses in residential areas, and evaluate performance standards as part of the unified development ordinance; second by Ms. Weakley.

Motion passed 8-2, opposed by Mr. Galin and Mr. Wilson.

Motion made by Mr. Arthur to approve the consistency statement; second by Ms. Hager.

The proposed amendments are consistent with the adopted comprehensive plan, Plan Chatham, under the Land Use Plan Element, Land Use Policy 5, Strategy 5.1 which reads “Encourage context sensitive development design. This type of design includes elements such as architectural features that resemble historical structures and local vernacular, site design that reduces impacts on historical structures, working landscapes and viewsheds from public roadways, integrated open space, and preservation of unique natural features such as heritage trees and mature forests.”

Motion for the consistency statement passed 8-2, opposed by Mr. Galin and Mr. Wilson.

- Chair Lucier stated the Planning Board will now discuss the height limit exceptions listed in Section 8.8, Height Limit Exceptions of the Zoning Ordinance. Mr. Sullivan had section 8.8 on the screen for the Planning Board to view.
- Ms. Hager stated she is still not clear as to why the Planning Board is striking the word monument and observation towers from the height exceptions. Mr. Sullivan stated they would not be exempt from height restrictions and would have a 60' limit restriction in residential areas.
- Vice-Chair Siverson stated if there is a CUP process in residential areas couldn't that be a restriction or condition for height requirement for a monument. Chair Lucier stated there might be someone that is permitted by right that could put up a 200' monument or tower in a residential area.
- Mr. Wilson asked if a monument has to be tied to a church or place of worship. Mr. Sullivan stated no, it could be a monument in someone's backyard.
- Mr. Wilson asked if it included flag poles. Mr. Sullivan stated no, flag poles is an exception.
- Mr. Sullivan stated if someone wanted to build a monument in their backyard the staff would classify that as an accessory to the home, but if someone wanted to build a smoke stack, there would be a

question as to what is the smoke stack attached to. It is no longer an accessory, but an industrial use. Mr. Sullivan explained that there are a lot of different items that are covered by the ordinance such as cell towers.

- Ms. Weakley asked about the flag pole height and mentioned a case recently about an American flag at a car dealership. Mr. Galin stated that is one incident out of all the car dealerships in the U.S. There was some Board discussion on the average height of a flag pole. It was mentioned that 20' is the average height of a flag pole.

Mr. Sullivan stated Orange County has just adopted an ordinance referring to flag pole height because of a flag that was located next to the interstate at about 200' tall. Chair Lucier asked if there were any flag poles more than 60' high in Chatham County. There was some Board discussion on large flag poles in Chatham County, but not recalling any over 60' tall.

- Ms. Moose asked, what is the problem that the Planning Board is trying to solve with these restrictions? Chair Lucier stated initially it was a reaction to the concern of the proposed large, 200' monument in Moncure in a residential area. There was concern for traffic and that it could be seen from a long way and who knows what other kind of monument could go up if anyone could do it. Chair Lucier stated the height exemption list is quite a lengthy list and maybe the Board should go through the list in more detail to see if there needs to be other height restrictions. Chair Lucier also stated maybe there needs to be some information provided about the height restrictions in other jurisdictions.

Mr. Galin asked if that would be covered in the future UDO. Mr. Sullivan stated that it could be covered in the UDO.

Mr. Frazier stated the way the height requirements work now, if someone wants to exceed them, is there a procedure in place for them to do that. Mr. Sullivan stated they would have to apply for a variance and that would go to the Board of Adjustments, but on the staff side they would most likely recommend denial. They have to show something unique and different about your property than every other property in the County that would result in needing a variance. A height exception is not unique to any property in Chatham County. Mr. Sullivan explained that it would be unique if a creek crossed the property with a buffer and good soil is in a certain area. The only place to build the house is too close to the property line, which would be unique and could result in a variance to setback, there is nothing unique about a height limit.

Mr. Frazier stated he feels that if someone has a large piece of property with no access issues and they want to have a monument there should be a procedure for them to do that.

- Vice-Chair Siverson asked if there was a situation where someone wanted to put up a 200' monument and it is not tied to a church or building. Would that still require a CUP permit? Mr. Sullivan stated he is not sure if a monument on a raw piece of land without a building on it could be approved at all. That would be the principle use of the property and in the table of uses there is not a category for monument. Mr. Sullivan stated there is a 60' height limit of the building, but no limit on a monument that would be an accessory.

Mr. Wilson asked if this is approved, it would stop that. Mr. Sullivan stated yes, they would be capped at 60' because that is the height limit and there is no exception for it to be exceeded.

- Ms. Weakley stated what if a monument is built that is really offensive. Mr. Sullivan stated the County can't regulate the content of the monument.
- Ms. Hager stated she is not in favor of any of the changes because her concerns would be more for fire or safety. If there was never an issue with fire or safety before it seems we would be striking monuments from the exception because we are afraid of what something might look like.
- Ms. Moose has asked if there has been any public outrage or contact to the staff about monuments. Mr. Sullivan stated the monument in Haywood has prompted a lot of calls and e-mails for Chatham and even Lee County citizens. There was some Board discussion about having a monument in their back yard and how they would feel about it.

Mr. Galin encouraged Board members to search the internet for that particular god and you will find the dimensions of how large that monument will be. It is not just tall, but also wide so people could walk up into it like the Statue of Liberty. It will be huge and a major tourist site.

Vice-Chair Siverson agreed tourism will come to this monument. There was some question if this temple and monument is grandfathered. Mr. Sullivan stated the temple is vested because of a septic permit, but the monument is a different issue that may or may not have vested rights. Mr. Sullivan stated there have been no permits issued specific to the monument.

- Ms. Weakley stated if there was a 200' monument being erected in her neighborhood she would want a way to voice her concerns and provide input, because a monument could impact her property value. Vice-Chair Siverson stated there is not a way to do that in this situation unless there is a height restriction.

Ms. Hager asked if there was any mechanism in place for neighbors to voice their concern for their property value. Chair Lucier stated no, this is why we initiated the County wide zoning so nearby residents could have the opportunity to weigh in on something that was being rezoned.

- Chair Lucier stated the Planning Board has three meeting to make a recommendation to the Board of Commissioners. There was some Board discussion about looking into this item deeper and have the planning staff look at other jurisdictions and their restrictions on height requirements. The Board also talked about the timeline of this height exemption item and how a decision should be made sooner rather than later.
- Chair Lucier asked Mr. Sullivan if the staff could gather information from other jurisdictions and provide that to the Planning Board to review. Mr. Sullivan stated, yes he will have that information researched and provided. Ms. Weakley mentioned Orange County regulations and their issue with the flag pole height.

- Ms. Moose asked if monuments could be added to the Table of Uses. Mr. Sullivan stated it is possible, but if it is listed as a separate use that means it could be a principle use on a piece of property. Then we will have to determine what districts we allow by right.

Motion made by Mr. Galin to table this item until the next Planning Board meeting which will be held on August 6, 2019; second by Mr. Frazier.

Motion passed 7-3, opposed by Mr. Wilson, Mr. Arthur, and Ms. Hager.

- There was some Board discussion about reasons to vote on this item now and not tabling it another month. Some of the discussion was that this has been covered in previous meetings and a tower or monument at 60' is very high in a residential area. Some Board members stated there are other things on this list of exempted items that may need to be added to height restrictions. Mr. Sullivan stated there is some items on this list that will work themselves out in the zoning process. Some items are for farms and are exempt because of the bona fide farm operation.
- Chair Lucier stated there are two things that need to be done before the next Planning Board meeting. First the staff is going to provide other jurisdiction height requirements and second for each of the Board members to think about what is on the Section 8.8 list that also needs to be included in the height restriction.

VIII. NEW BUSINESS:

IX. BOARD MEMBERS ITEMS:

1. Update from the Planning Board liaisons.

- Chair Lucier stated he was not able to attend the Pittsboro Planning Board. They had one item on the agenda and it was about the proposed concrete plant.
- Vice-Chair Siverson stated the Siler City Planning Board meeting spoke about the issues with their ordinances and zoning enforcement. Currently, some of their nuisance violations are considered a misdemeanor and the fines are going to the State. They want to decriminalize the nuisance so the city will receive the fines. Siler City also realizes they have gaps in their ordinance that they would like to clean up. Vice-Chair Siverson also stated that someone is buying the old Chatham Hospital site to build some townhouses, but there might be some issues with DOT and the driveway rules.
- Ms. Moose stated she could not attend the Agriculture Advisory Board meeting, but she was given a summary. She stated there is a recommendation for three new Board members and they have endorsed the draft of the Voluntary Act District Ordinance and it will be going to the Commissioners in August. They are considering a discussion of the roll back PUV taxes with members of the food council at their next meeting. There was discussion about reviving the Agriculture Hall of Fame and there will not meeting in the month of July.

