



Chatham County Planning Board Minutes March 7, 2023

The Chatham County Planning Board met in regular session on the above date and the meeting were as follows:

Present

George Lucier, Chair
Clyde Frazier
Tony Mayer
Kent Jones

Jon Spoon, Vice Chair
Shelley Colbert
Amanda Roberson

Absent

Allison Weakley
Eric Andrews
Mary Roodkowsky
Norma Hernandez

Planning Department

Jason Sullivan, Director, Chance Mullis, Planner II, Brandon Dawson, Planner I, Karen Bonomolo, Zoning Technician, and Dan Garrett, Clerk to the Planning Board.

Unified Development Ordinance Consultants

Kelly Cousino and Sean Scoopmire

I. CALL TO ORDER:

Chair Lucier called the meeting to order at 6:30 p.m. Chair Lucier took this time to introduce the three new Planning Board members.

II. DETERMINATION OF QUORUM:

Chair Lucier stated there was a quorum, 7 members present, Ms. Weakly, Ms. Hernandez, Mr. Andrews, and Ms. Roodkowsky were absent.

III. APPROVAL OF AGENDA:

Approval of the Agenda – Chair Lucier asked the board members if they were okay with the agenda and the consent item. Motion to approve by Vice-Chair Spoon, second by Ms. Robertson. The agenda was approved, 7-0, unanimously.

IV. APPROVAL OF THE MINUTES:

Consideration of the February 7, 2023, meeting minutes. Motion by Vice-Chair Spoon and second by Mr. Frazier. The February 7, 2023, minutes were approved 7-0, unanimously.

V. PUBLIC INPUT SESSION:

There were no residents signed up to speak.

VI. CONSENT ITEM:

1. A legislative public hearing requested by Derrick and Latanya Smith for a rezoning on Parcel 85396, located on Moncure Pittsboro Road, Moncure, being approximately 2.003 acres from Conditional Use Neighborhood Business back to R-1 Residential in order to construct a new residence, Haw River Township.

A legislative public hearing was held February 20, 2023. Planning staff presented the request. No one has spoken in opposition to this request. In September 2012, the applicant's father, Derry Smith, applied for and was approved for a Conditional Use Neighborhood Business rezoning and Conditional Use Permit (CUP) for a car detailing operation. The project never materialized, and the CUP expired leaving a conditional use neighborhood business district with no allowed uses. However, the zoning designation cannot be changed without going through a formal rezoning process. The applicant, now property owner, wishes to revert the zoning to residential in order to build a single-family dwelling.

This item was approved 7-0 when the agenda was approved.

VII. ZONING ITEMS:

1. A legislative public hearing requested by The Leads Group, PA on behalf of Aaron Horton Toothbrush LLC to rezone Parcel 18493 from R-1 Residential to General Use Light Industrial being approximately 4.04 acres, located at 27 Mt View Church Rd., Oakland Township.

Mr. Sullivan stated a legislative public hearing was held January 17, 2023. Planning staff presented the request and Chad Huffine, representative for the applicant, addressed the Board. Planning staff stated compliance with the land use designation on the future land use map in the comprehensive plan may not be supportive of light industrial zoning but the Commissioners would have the final decision. Two residents spoke in opposition to the rezoning request stating the property is in a residential area in a tightly knit neighborhood and had concerns about potential environmental impacts to the Rocky River.

The Planning Department and County Manager's offices have received several emails from landowners in the vicinity that oppose a light industrial rezoning of the property. That information can be viewed on the webpage for this item. Following the public hearing, the applicant's representative stated they would be holding another community meeting to see if they can get agreement from the landowners in the area for the rezoning. Planning staff has not received an update about the community meeting from the applicant or their representative. 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 limitations 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.

Any alleged error in the Ordinance, if any, would be remedied by the proposed amendment. No errors in the Ordinance are being claimed.

The changed or changing conditions, if any, make the proposed rezoning reasonably necessary. The Board of Commissioners adopted the comprehensive plan, Plan Chatham, in 2017. This property is included in a node designated as having potential for some non-residential development. The Chatham County Collection Center is on the south side of Mt. View Church Road opposite this site and the properties on the east side of

NC 87 S are vacant. The applicant contends the rezoning may provide much needed non-residential space to assist in the mass of development happening in and around Pittsboro and the Moncure area. This parcel sits on one of the major corridors and generally may not be suitable for residential use.

The manner in which the proposed rezoning will carry out the intent and purpose of the adopted Land Use Plan or part thereof.

The applicant contends the following support of the Comp Plan:

1. Chapter 2 – contributes to the diversity for non-residential tax base and employment leakage.
2. Chapter 3 – locating near existing infrastructure while increasing employment opportunities within the county. The parcel has access to the county water system.
3. Chapter 4, Strategy 2.1- creates flex type small industrial and economic spaces for in county jobs.

The Comp Plan defines Crossroads Community as “smaller than villages, are within rural areas, and typically have a minimal amount of retail and institutional uses. Mix of uses include single-family residential, some agricultural support services, limited supporting retail, and institutional uses. Locations mentioned are Haywood, Brickhaven, Corinth, Griffins Crossroads, Wilsonville, Bear Creek, and Harper’s Crossroads.”

Also noted under Strategy 2.1 and 2.3, pg. 55, there is encouragement of small-scale development, service, office, “flex space”, and other small development by designing Village Center and Crossroads Community in appropriate locations. Also, as demands warrant, consider zoning to allow distribution and warehouse uses along major transportation corridors.

Other factors/reasons for rezoning request that make it essential or desirable for the public convenience or welfare. The applicant states this site will provide quick and easy access to a major corridor keeping traffic away from the residential area. The property boundary is approximately 155 feet from the edge of the highway which is dedicated to the NCDOT right-of-way. The use of the property for non-residential use is the best fit for the location in that it is not likely someone would build a residence right on the highway.

The property is located within the Local watershed area where development of the site is limited to a maximum of 36% so out of the 4.04-acre tract, only 1.45 acres can be developed.

All other information required on this application or as offered by the applicant in support of the request. The applicant provides the following:

1. Although the application states will use on-site wells, county water is available in this area and will be required to tap into that system.
2. On-site stormwater measures will be required to meet the Chatham County Stormwater Ordinance
3. On-site septic is proposed.
4. As mentioned in the Introduction & Background, comments were provided during the public hearing and emails sent to staff recommending denial of the rezoning. Concerns raised include the following:
5. Concern about stormwater runoff impacting the Rocky River and localized flooding of a stream in close proximity to the site.
6. Concern about the adequacy of the soil to support a septic system.
7. Has NCDOT evaluated the site to determine if the site can be accessed for heavy equipment and trucks?
8. If approved, the rezoning will set a precedent for additional light industrial rezoning applications.
9. The property owner was aware of the residential zoning when it was purchased.

10. There is a county collection center located opposite this parcel, but it provides a necessary service to the community whereas this proposal will provide no services to the surrounding community.
11. Potential increase in accidents involving heavy truck traffic due to the warehousing operation, whereas the collection center has limited heavy truck traffic.
12. Industrial uses are listed in some nodes in the comprehensive plans, such as Employment Centers, but there is no reference to industrial in the Crossroads Community node.

The Planning Board has up to three meetings in which to make a recommendation to approve or deny the request to the Board of Commissioners.

If approval is recommended, the following Consistency statement has been provided for consideration:

1. The rezoning request supports the Comprehensive Plan by being located within a Crossroads Community node, located on a major corridor, and will provide economic growth in relation to the tax base and employment opportunities.

If denial is recommended, the following Consistency statement has been provided for consideration:

2. The rezoning request does not support the Comprehensive Plan with respect to not providing protection for environmentally sensitive areas, does not maintain rural character and preservation of safe, healthy activities of local residents, and is not consistent with the intent of a Crossroad Community node.
 - Ms. Robertson asked Mr. Sullivan to explain setting a precedent on how this rezoning request works. Mr. Sullivan stated when the BOC approves a rezoning of a parcel, there is a precedent to rezone the parcel to an existing or close to rezoning use. For example, if there was a parcel zoned B-1 and the property owners acquired an adjoining parcel it would be acceptable to rezone the acquired parcel to B-1 or a similar rezoning. Also, in the Comprehensive Plan there is language that encourages rezoning properties to existing businesses. Ms. Robertson asked, can the applicant apply for a Conditional Use rezoning instead of the General Use rezoning? Mr. Sullivan stated they could have applied for a conditional district rezoning, which would require a site-specific plan, specific list of uses or restricted uses, and any conditions would also be binding with the final approval. Chair Lucier stated if there were any changes to the site plan in the future, the applicant would have to reapply and go through the approval process again. With the general use rezoning they are allowed to have any of the uses that is permitted by right under light industrial.
 - Vice-Chair Spoon stated for clarification, this area is designated as a crossroads community and light industry is not one of the allowable uses within the crossroads community. Mr. Sullivan stated it is not listed when you look at the text for encouraged uses in that particular node.
 - Mr. Chad Huffine with The Leads Group, PA stated he is representing Mr. Aaron Horton with Toothbrush, LLC. We are here before you to present this rezoning request and listen to the boards and neighbors' concerns and answer or alleviate any concerns. The long range Comprehensive Plan, Plan Chatham has an additional several categories, one of them being a village center, which closely resembles, but is different than the community crossroads that you all have at this location. Long range planning in Chatham County did look at activity nodes in the county where a business could locate where a traffic center had activity already underway. Based on the traffic network it would be a good location for future development in addition to a residential use. The county adopted in 2007 the R-1 zoning district over all parcels that did not already have a specific use predating the zoning, as such this property is zoned R-1. We are requesting to rezone this parcel to light industrial.

- Mr. Huffine pulled up a GIS map of the parcel for the Board to see and stated if this node would had been looked at as a village, light industrial uses would be allowed in this area. It is very difficult to go back and look at the thought process for long range planning, it is a very in depth activity and it is hard to know what the future will hold, it is just our best guess. Mr. Horton and Mr. Andrews found this parcel and realized it would be a good location for Mr. Horton's business to expand which is a Chatham County based business. This property is located in an activity node that is similar to the use he has already, which made sense for this location and why we are here for the rezoning request. Although with a general use rezoning we are not required or bound to a site plan, we have submitted one to the county staff. We want to be transparent about what our plans are and what is allowed under the ordinance if this rezoning is approved. Mr. Huffine showed the Board a phone of the proposed footprint of the site plan which has 1.5 acres of impervious surface which would be allowed under the current stormwater ordinance, the property in total is 4.04 acres. This image shows the planned footprint and the remaining vegetation and surrounding area would be left untouched if the zoning were approved. A driveway would be located immediately across from the recycle center and fan out to a bulb of activity with a building and a parking area. That area would be surrounded by over 100' of existing vegetation or improved vegetation through the landscaping requirements. To the east a large majority of the buffer is in the Right-of-Way for Hwy 64 and to the north will be the septic area, so the west is a small sliver of remaining green area with wooded parcels adjoining the subject property.
- Mr. Huffine stated the long-range plan has ten goals and this rezoning request nine of the goals will be met, the only goal that will not be met is the recreational goal. One of the important pieces when looking at this property from the perspective of Mr. Horton and Mr. Andrews, was the location and proximity to existing businesses and the need to provide additional area for those businesses in Chatham County. One of the ten goals is to provide for those uses and there is a limited number of places within the county where Chatham county businesses can locate. As a Planning staff and Planning Board, it is important for you to consider your adopted table of permitted uses. As you deliberate on this request tonight, be aware that this is a general use rezoning request, if a category shown under the IL column has a P in that category, that is permitted by right if you approve this zoning. If you see a conditional use indicated by a CU or a special use permit indicated by SUP, that will require us to come back to this board and the commissioners for approval. Mr. Huffine stated they had a community meeting with 40 to 50 people in attendance for two hours in the rain. There were a lot of opinions and statements made that are not accurate, as we consider this tonight ask any questions pertaining to the facts of our request and the land use that is intended.
- Vice-Chair Spoon stated, though he is not present this evening, Mr. Eric Andrews is a member of our board and his expertise as a real estate agent in the county is valuable to us and has shown us to be an upstanding and ethical member of this board. He had said because he is a partial owner of this project if he were here, he would have recused himself and would not be a part of this presentation. Mr. Andrews had stated that in a correspondence and Vice-Chair Spoon wanted that on the record. Vice-Chair Spoon asked Mr. Sullivan if this parcel is rezoned for general use, does the submitted site plan binding? Mr. Sullivan stated no, the site plan would be reviewed administratively by staff. The only piece that would be reviewed by the board would be the landscaping plan by the Appearance Commission. Vice-Chair Spoon stated with general use light industrial rezoning we would not have any control over what is being done to this property. Mr. Sullivan stated that is correct as long as everything complies with our adopted regulations.
- Chair Lucier stated several hundred feet of this property is designated Right-of-Way to the NCDOT for possible expansion of Hwy 15/501, is that correct? Mr. Sullivan stated he believes the Right-of-Way is about 200' and is already established so it wouldn't impact this particular piece of property. Chair Lucier stated he did look it up and it is either 200' or 300' of designated Right-of-Way. Mr. Huffine stated he believes it is 300' just by looking at this parcel on GIS.

- Mr. Mayer stated it is his understanding that a metal warehouse would be built for subcontractors for fabrication, plumbing, and electrical on site that would serve larger projects, is that correct? Mr. Huffine stated yes, in the majority of our conversations over the past two years we have discovered a need for either the warehouse or housing for Mr. Horton's goods or spaces for trades people for small shops located within Chatham County. Mr. Mayer asked if this has anything to do with this toothbrushes? Mr. Huffine stated no it is not going to be a toothbrush factory or storage of toothbrushes, that is a story that is endearing to Mr. Horton and Mr. Andrews from high school sports. After Mr. Horton's father had passed away and Mr. Andrews came into Mr. Horton's life, there was a bond created after that adversity, and toothbrush is meaningful to them both. Mr. Mayer asked what is the business of Toothbrush? Mr. Huffine stated Toothbrush, LLC is registered in North Carolina as a land holding company and the members are Mr. Aaron Horton and Mr. Eric Andrews. They purchase the land and either hold it and develop it, and in this case they will develop the land and the materials that will be stored there will likely be heating and air conditioning units and construction materials.

Public Input:

- Mr. TC Morphis with The Brough Law Firm stated he is representing Mr. Steve Jenisch, a resident adjoining this proposed property. The memo that was provided to the board talks about spot zoning and in my opinion and of course I am not your County Attorney and you can receive your own legal advice, but this is certainly unlawful spot zoning. With that being said, this board is called to ask is this good planning and does it make sense in the community? The reason we are focused on spot zoning is because it provides clear guidelines about what this board should be looking at. The courts have said, and I quote from the City of Raleigh, "A zoning ordinance, or amendment, which singles out and reclassifies a relatively small tract owned by a single person and surrounded by a much larger area uniformly zoned, so as to impose upon the small tract greater restrictions than those imposed upon the larger area, or so as to relieve the small tract from restrictions to which the rest of the area is subjected, is called 'spot zoning.' It is beyond the authority of the municipality, in the absence of a clear showing of a reasonable basis for such distinction." Mr. Morphis stated the courts have talked about what a reasonable basis is and as Planning board members this is something you are familiar with. The courts have said it can be reasonable if it is compatible with the Comprehensive Plan, if there are benefits and detriments that are balance to the residents of the surrounding community, it can also be reasonable if the relationship of the uses rezoned is compatible to the uses currently present on the adjacent tracts. Respectfully we would say this proposal does not meet any of those standards and as Mr. Sullivan has already stated the county has already said what should go here for a crossroads community, there are plenty of locations within the county where industrial use could go, but the county has said through their Comprehensive Plan adopted in 2017, this is not one of those locations.
- Mr. Morphis stated he is sympathetic to the applicants to bring a need a provide warehousing uses for the county, but this is not where that goes. It is important to remember this is a general use district rezoning and it has already been acknowledged if the rezoning is approved that site plan means nothing, they could just as easily turnaround and sell the property that will then have industrial zoning on it which could then have any of the permitted by right uses such as airports, ammunition assembly, automobile assembly, carpet manufacturing, coal yards, electric power generation, hosiery manufacturing, lumber yards, major utilities, jail or penal institutions, oil and gas explorations, and solar farms. Nobody thinks that any of these uses will go on a 4 acre tract of land, but it is that precedence that gets set. They are asking to go from residential, the most restrictive uses in the county, past commercial, past institutional, past the uses that were envisioned in the crossroads community all the way to industrial zoning. The Comprehensive Plan is very clear what goes into a crossroads community, "Mix of uses include single-family residential, some agriculture support services, limited supporting retail, and institutional uses." What they are proposing is needed in Chatham County, but it simply is not needed here and we respectfully ask that you recommend denial of the requested

rezoning. Mr. Morphis thanked the Board. Chair Lucier thanked Mr. Morphis and stated all the board members received the information that had been sent earlier.

- Mr. Aaron Bell stated I would like to first thank the county commissioners and staff for their continued hard work and dedication to the community. My name is Dr. Aaron Bell and I'm a biologist/zoologist and instructor at NCSU, so I apologize in advance if this comes across as a 3-minute lecture. I'd like to begin by posing a rhetorical question and that is: What is the monetary value of an endangered species? Keep that question in the back of your mind and I'll come back to it in a minute. The stretch of the Rocky River that runs through our backyard (known as the Dragonfly Riffles) is a site considered to be of "national significance". In order for a site to be considered nationally significant for conservation purposes it must include populations of at least one globally rare species (ranked as either a G1 or G2 on the global ranking scale). The Rocky River contains not just one but 2 species that fit that criteria, the Cape Fear Shiner (a small minnow) and Harperella (an aquatic plant), ranked as G1 and G2 respectively. The only known population of Cape Fear Shiner in the world is found in this one 10 mile stretch of the Rocky River. The largest breeding population is found in the Dragonfly Riffles area on the east and west sides of the 15/501 bridge. The Dragonfly riffles, as you might expect, is also the primary breeding site of Septima's Clubtail Dragonfly, recently de-ranked to G3, along with several other rare dragonfly species. Just 2 miles further down, at the confluence of the Rocky and Deep rivers, is the Deep River Harperella Bar. This site is one of only two in NC for the federally endangered Harperella.
- Mr. Bell stated the stormwater drainage for the proposed Toothbrush development site runs through a culvert under Mt. View Church Rd and into a tributary of the Rocky River. The outlet for this tributary is on the east side of the 15/501 bridge and dumps directly into the Dragonfly Riffles area of the Rocky River. One of the biggest concerns that we have in terms of adverse environmental impact is not only stormwater runoff from the site but the proposed installation of onsite septic. The site was denied twice by the county for onsite septic due to poor soil conditions. Unfortunately, we learned that a loophole can be exploited to circumvent this restriction. Namely, a consulting soil scientist can be hired to certify the soil as acceptable for septic use and as long as the company assumes liability for the certification, the county has to accept the finding. Liability, that is the key. So now we circle back to the question I posed at the beginning: What dollar amount can you place on endangered species? Some would argue the price is incalculable. The endangered species act places the fine at up to \$3500 per life. But at the end of the day, the financial penalty is irrelevant. The damage is done, all that is left is to assign blame and "punish" the perpetrators but there is no coming back from extinction (despite what you may have read about the Woolly Mammoth and Dodo bird in the news recently). The environmental risk for this type of development on this site far outweighs any private monetary gain.
- Mr. Bell also stated, as we all know, human waste is not the only thing that can find its way into a septic system. In the case of a machine shop, this means a variety of chemicals such as toxic heavy metals and PFAS's (so called forever chemicals). If you live in and around the Pittsboro area you are very familiar with contamination of the Haw River drinking water supply by forever chemicals. The only effective means of removing these chemicals is through expensive water filtration systems. Secondary containment in the form of a stormwater retention pond has been shown to be ineffectual due to binding of forever chemicals to ultrafine particulate that remain suspended in the water column. In the event of a moderate to severe storm event, which happens several times a year in this area, retention pond containment is breached and the resulting chemical effluent is discharged into the river. In addition, retention ponds need to be dredged periodically to remove the accumulated heavy metal contamination but this requires money, monitoring and enforcement. In short, improperly maintained retention ponds exacerbate negative environmental impacts rather than preventing them by contaminating downstream water supply and poisoning the organisms residing in and around the ponds.

- In closing, Mr. Bell stated under current law, critical habitat designation of the Rocky River has few effective teeth because it has not provided any protection for water quality within this basin. Polluted water does not stop at an arbitrary green line drawn on a map denoting a conservation easement. This means that it falls to the citizenry to actively participate in the protection of this critical habitat. We need to show up and make our concerns heard in these public forums and if necessary, reach out and partner with environmental agencies and legal representation to fight for the integrity of these highly sensitive habitats. So, as you have probably guessed, we are strongly against this rezoning proposal and urge you to deny the rezoning application for this site. I thank you for your time and consideration.
- Mr. Aaron Horton stated he and Mr. Andrews are partners and have been born and raised in Chatham County for generations and plan on raising my children in Chatham. There are people in this room that know me and do business with. If you know me, then you know what I stand for. We chose this site for several reasons and because it is next to the recycle center. I have provided heating and air conditioning services for this county with a total of 3371 residents in the last twelve months. There are 2457 residents that are on an annual contract for services twice a year for heating and air and once a year for either their generator or hearer or dryer vents. There are another 2138 residents that I have serviced within 12 or 36 months. I provide a service for Chatham County, and I am proud of the service I provide. I looked at the list of people who signed the petition and eight of them are current customers of mine who receive annual services from my company. Most did not understand what Toothbrush, LLC meant and I spoke with one of them and is in full support of what I want to do. I fully support a lot of the businesses and services within Chatham County, Police department donations, local fair, and contribute to the school system and I try to be an active and upstanding member of our community. I have been voted Chatham County's best service company for the last three years in a row in Chatham magazine voted by Chatham residents.
- Mr. Horton stated there were a lot of negative things said about Mr. Eric Andrews within the community, but Mr. Andrews is one of the finest people on the planet. When my father passed away, he kept up with me every week, he was my high school teacher and football coach, and he is one of the reasons I played football in college, if it wasn't for Eric Andrews I would not have done it. He is a mentor of mine and he means so much to me not just a friend, but know he is. Some of the things that have been said about him are unfair and are unjustified. Mr. Andrews and I decided to do this project together, it was a good opportunity for me to provide for my customers.
- Mr. Horton stated my father stated this business in 1988 in Chatham and as we have grown there is a need for a warehouse to have inventory available for my customers right now without having to wait up to six months for materials. I also have a full electrical division and the reason we want light industrial is because I want to store air conditioning equipment and electrical equipment such as generators. We couldn't get generators for up to 12 to 18 months, I want to provide a better service for my customers. I ask that you consider rezoning this parcel because based on the growth plans for Chatham and there is nobody better to have in that area than me. It will look nice, and I care about the watershed and the trees as much as anything. I have the same concerns and there are regulations in place that we will need to meet, and we will meet them. Mr. Horton stated he hopes the board will not force a 30-year business, a family that has been here for generations, to move to Sanford or Mebane. I need to be right here servicing my community where 60% of my business is located, right here in Chatham. The other 40% of my business is in Chapel Hill, Apex, and Cary. The majority of my employees live in Chatham County and they depend on me and my business, this piece of property will allow me to do that. The name toothbrush is not relative to this at all, it is a personal story that I will not get into tonight.
- Chair Lucier thanked Mr. Horton and stated Mr. Andrews is a valued member of this board and he recused himself early on in an appropriate way and is absolutely consistent with our Code of Ethics of the Planning Board regarding conflicts of interests, so there is no problem there.

- Mr. Frazier stated the way Mr. Horton described the project as something for your business, but that does not reflect the application, it seems like something different. Mr. Horton stated he is a business man and this is for me, but he wants to have options and every decision he makes is to protect his wife and children. My father passed away at 49 years old and if I were to pass away early, I would want to provide the best for my family if I was not here. I am 39 years old, I have a nice building in Pittsboro, I am not going anywhere, but I don't know what will happen down the road. The zoning represents what I want to do and it also represents me taking care of my family, putting us in a position that if something happens to me, there are options. Mr. Jones asked Mr. Horton if this parcel isn't rezoning you spoke about moving, is that true? Mr. Horton stated this is plan A, and would like to think the board wouldn't force me, a Chatham County 30 year old business to make a plan B or a plan C. This property is right in the center in the Plan for Chatham County. My plan is to have my business here in Chatham where I have grown up and be a business owner, do not force me to go to Sanford or Mebane.
- Mr. Steve Jenisch wished Mr. Horton all the best in his business, Chatham County needs healthy businesses, but we do not need them in a residential neighborhood or a crossroad community as defined by the Comprehensive Plan where there is no accommodation for light industrial uses. If approved this would set the precedence for other businesses to move in and cause even greater harm. I have listed in the document all the negative impacts that are expected and anticipated from this operation and similar operations, they are not suitable for this area. I ask that you recognize the purpose of the Comprehensive Plan and apply the rules that they suggest and arrive to the right decision, and the right decision is to not allow this rezoning. Chair Lucier stated we have received your materials and distributed them among the Planning Board members.
- Ms. Robin Holmes stated they have bought their land in 1988 and have been living there for a while. Nobody has brought up the topography of the land in this area, at the top of the big hill is the large 3M company with large trucks coming out of that establishment and I am ran off the road on a regular basis by people who are trying to pass the trucks at the top of the hill and do not see me at the bottom of the hill. Ms. Holmes stated she has a lot of respect for Mr. Andrews and small business owners, she has a small business herself, but nevertheless I did not know until this meeting they could have applied for a special use permit, and that would make more sense. We also have flash floods in that little creek which is right next to the recycling center. When those flash floods come a few years ago you could not even pass on the road, they had to put in a larger culvert to eliminate that problem, but you can imagine how much water is coming down from that hill and with an extra 1.5 acres of impervious surface it will not help. We were also told during the community meeting on the cold February evening in the dark with it raining on the side of the road, that he would have to rent some of the space out to be able to afford to build the site. I am curious, nobody has mentioned how big the septic area is, how many people can work in this little industrial area with a septic system, one person, eight people, twenty people? Lastly, there is a church about two blocks from this property that was built in the 1800's and the idea of having light industrial in the area of an ancient church and our watershed seems inappropriate to me.
- Mr. Bill Bober stated I, along with many of my neighbors who have recently built or moved into this area, are now living among so many who have enjoyed the natural beauty of the area for decades. Our combined properties are worth \$10's of millions of dollars, which would be immediately and negatively affected by this zoning change, so therefore we feel that the county needs to proceed with this request with the utmost care and caution, giving prudence and preference to those land owners who have already been here ahead of this request, and whose land values and quality of life may well be negatively impacted by this change. There are many already-approved commercial and industrial sites between Apex, Pittsboro, and Sanford to fulfill the client's needs without disrupting more natural areas.

While personally I wouldn't object to a conditional zoning for this building, as long as the natural areas away from 15/501, and certain noise ordinances were enforced to preserve the natural quality of the area, I have been informed the site in question has been evaluated for septic twice over the past 20 years, and found that according to the county, there are no suitable soils with no way to overcome the septic situation through engineering. We are not merely talking about a 3-bedroom house here, but a large industrial building with perhaps 20-30 occupants at various times, as well as other industrial waste, which may end up flowing right into the Gynnis Creek/Rocky River watershed. My wife and I personally had to "jump through hoops" with additional engineering and costs to merely add 1 bedroom to our septic field last year.

- Mr. Bober stated my questions then are, how does the applicant plan to overcome the septic situation? If the applicant provides a supposed solution for this, given the past reviews, will the county verify this prior to conditional approval, or will the county merely "rubber stamp" this? Would any conditional zoning approval also have this septic approval as a condition for zoning approval? If the county does "rubber stamp" whatever solution the applicant provides, will the county then be ready to defend a lawsuit regarding this, and where would those funds come from? I contend that the prudent way to resolve at least this issue would be to suspend this application, until waste and water solutions are clearly presented and then verified by the county to be correct and in line with current water, sewer, and State DNR watershed regulations.

Board Discussion:

- Chair Lucier stated we will need to have a brief deliberation about this rezoning because we have an important UDO presentation from the consultants. Let's have a discussion and see where we are as a board about this item. Chair Lucier stated he has a problem with this item because of it being light industrial within a residential district. He appreciates Mr. Horton, his business, and the services he provides, but has concern about this being in the crossroads community area and the Land Use Plan which was adopted in 2017 encourages crossroads community areas to serve the community itself, certainly not a general light industry designation.
- Ms. Robertson stated she agrees, the broad use that light industrial allows is a concern and the earlier conversation about that setting a precedence in that area is really concerning as well in a largely residential area. Vice-Chair Spoon stated he feels the same way. Knowing the area well, it is just a small property next to the highway and knowing the people involved, they are trustworthy, but as a general use rezoning in that area does not seem suitable when it is entirely surrounded by residential except for that one B-1 property which they had to explain exactly what they were going to do with that property, but this has an open ended ticket for anything on the list of uses. Vice-Chair Spoon stated he wishes all the best for the business owners and hopes they stay in Chatham County, but this is not the right area for it.
- Ms. Colbert stated it is important to look at this in the context of all the work that went into reaching consensus on designations such as crossroads community and to make sure we apply things consistently, so we do not open it up to setting precedence that was not intended. More importantly, balance the needs of everyone in the community because clearly there were a lot of homeowners concerned and every comment was read. The residents have vested interest in the community and when we talk about balancing these needs they need to be considered too. The environmental concerns are also worth looking at and considering as well. This is something the board should not recommend approval, and the community did a good job of articulating why the board should not recommend this rezoning. Mr. Mayer stated he is sympathetic to the business owner who wants the space to do this work and frustrated with the large industrial area across Hwy 15/501 which if is correct, all belongs to 3M. Chair Lucier stated that is correct, roughly 1600 to 2000 acres and when the Highway corridor was rezoned back in 2007, that was designated as heavy industry because that was the current activity, it was not approved to be heavy industrial, it was grandfathered. Mr. Mayer stated it is a problem the county doesn't have more area designated for this purpose and that needs to be

looked into. Mr. Mayer stated the zoning district which was favorable for a crossroads community in the UDO is the Rural Highway Commercial because it has a long list of uses that would be appropriate like retail and less industrial uses. With all that being said, this does not seem like the right location for light industrial and am leaning against this recommendation.

Motion made by Vice-Chair Spoon that the rezoning is not consistent with the Comprehensive Plan, "The rezoning request does not support the Comprehensive Plan with respect to not providing protection for environmentally sensitive areas, does not maintain rural character and preservation of safe, healthy activities of local residents, and is not consistent with the intent of a Crossroad Community node." Motion second by Ms. Robertson. The inconsistency statement was approved by a vote of 7-0, unanimously.

Motion made by Vice-Chair Spoon to deny the rezoning item, second by Mr. Mayer. This item did not pass with a vote of 7-0, unanimously.

VIII. UDO PRESENTATION:

- Chair Lucier welcomed Ms. Kelly Cousino and Sean Scoopmire to the Planning Board meeting and stated they will be giving us an update on the UDO project with the chapters and the definitions. It might be best to allow them to give their presentation and ask our questions at the conclusion, so we do not get caught in any details. The UDO subcommittee which is chaired by Jon Spoon will lead the question and answer session when the presentation is completed. Chair Lucier thanked Ms. Cousino for her time, and we all understand and recognize how important the UDO is and appreciate the work you and others have done on it up to this point and time.
- Ms. Kelly Cousino, a Unified Development Ordinance (UDO) consultant with White & Smith, stated she is thankful to be with everyone tonight and we have a lot of information to cover.

The consultants provided a PowerPoint presentation, and the slides are provided below. When a question is asked, it is under the slide in which the question was addressed.

RECODE CHATHAM | UNIFIED DEVELOPMENT ORDINANCE

Chatham County, NC
Board of Commissioners and Planning Board Meetings

Review of Zoning Module | March 6 -7, 2023



AGENDA

- Scope of Work & Progress
- Review of Guiding Principles & Goals
- UDO Organization & Project Documents
- Review of Zoning Module
- Next Steps



Zoning Module Review | March 6-7, 2023

2

SCOPE OF WORK

Stage 4: Adoption

Zoning Module • Development Standards Module • Procedures Module • Definitions Module

Stage 3: Code Drafting

Zoning Module • Development Standards Module • Procedures Module • Definitions Module

Stage 2: Assessment

Code Audit • Drafting Blueprint (Annotated Outline)

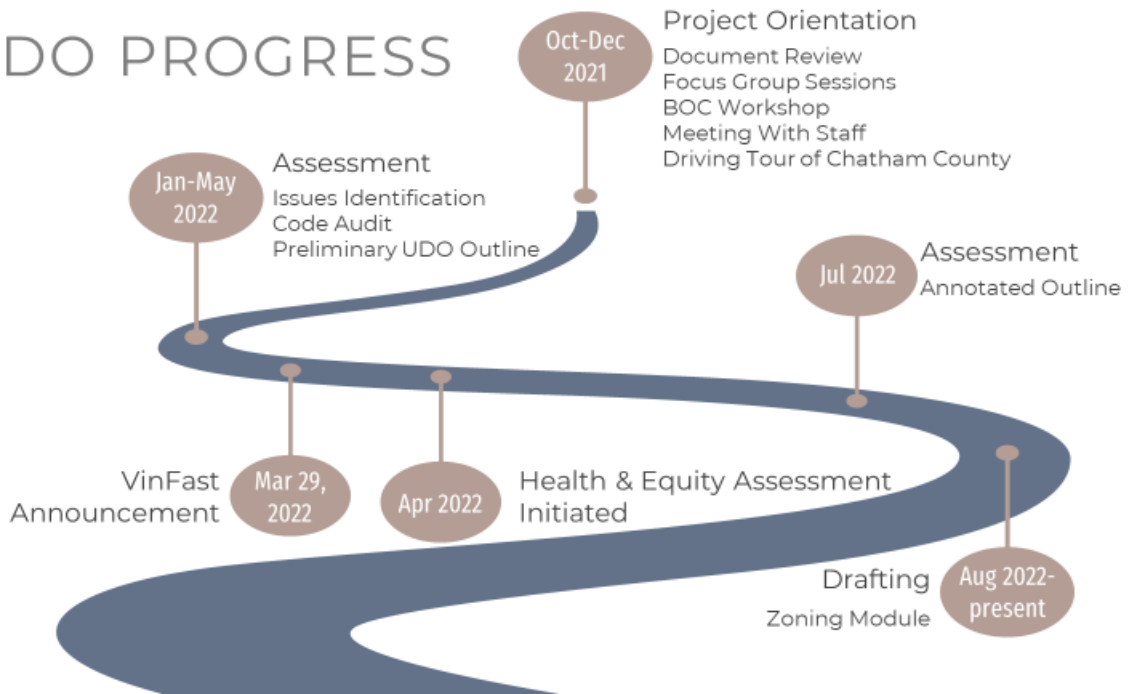
Stage 1: Project Orientation

Focus Group Listening Sessions • Document Review

Zoning Module Review | March 6-7, 2023

3

UDO PROGRESS



4

WHAT GUIDES THE INITIAL UDO DRAFTS?

1. *Plan Chatham*
2. The input of the Focus Groups, community, Planning Board, Board of Commissioners, and County advisory committees (*Audit Report*)
3. Draft *Health & Equity Assessment*
4. Direction from staff and Planning Board UDO Subcommittee as we go



OVERARCHING GOALS FOR THE UDO



UDO ORGANIZATION

- **Chapter 1: Introduction**
- **Chapter 2: Zoning Districts**
- **Chapter 3: Use Regulations**
- **Chapter 4: Development & Design Standards**
- **Chapter 5: Tree Protection**
- **Chapter 6: Conservation & Open Space**
- **Chapter 7: Infrastructure & Public Improvements**
- **Chapter 8: Watershed Protection**
- **Chapter 9: Stormwater Management**
- **Chapter 10: Soil Erosion & Sedimentation Control**
- **Chapter 11: Flood Damage Prevention**
- **Chapter 12: Additional Requirements for Subdivisions**
- **Chapter 13: Procedures**
- **Chapter 14: Review & Decision-Making Bodies**
- **Chapter 15: Nonconformities**
- **Chapter 16: Enforcement**
- **Chapter 17: Rules of Interpretation & Measurement**
- **Chapter 18: Definitions & Acronyms**
- **Chapter 19: Submittal Requirements**

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ANNOTATED OUTLINE

- Drafting “blueprint”
- Working document that is updated as the UDO takes shape
- Shows structure of UDO and where current code provisions are anticipated to be located

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ANNOTATED OUTLINE

- Drafting “blueprint”
- Working document that is updated as the UDO takes shape
- Shows structure of UDO and where current code provisions are anticipated to be located

Zoning Module Review | March 6-7, 2023

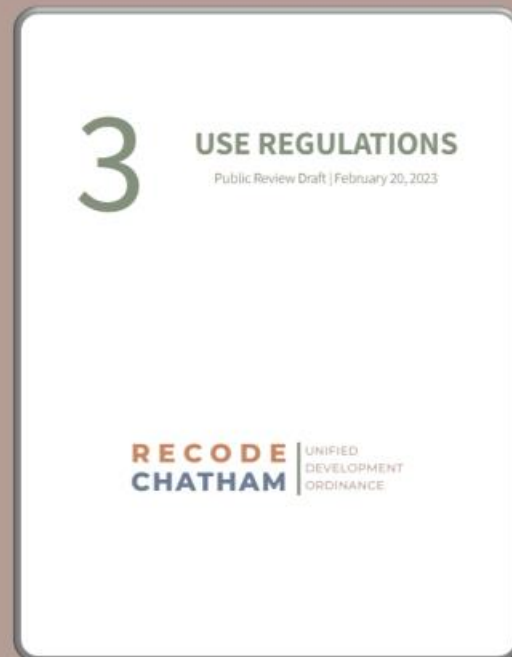


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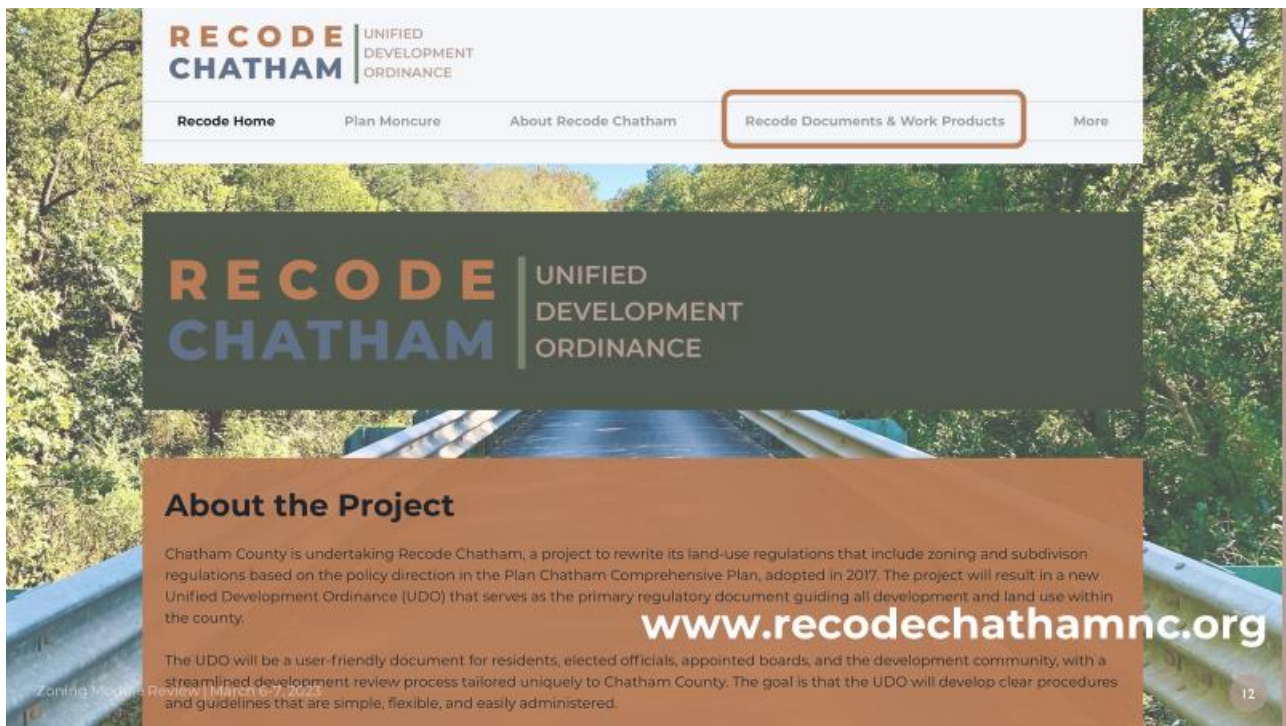
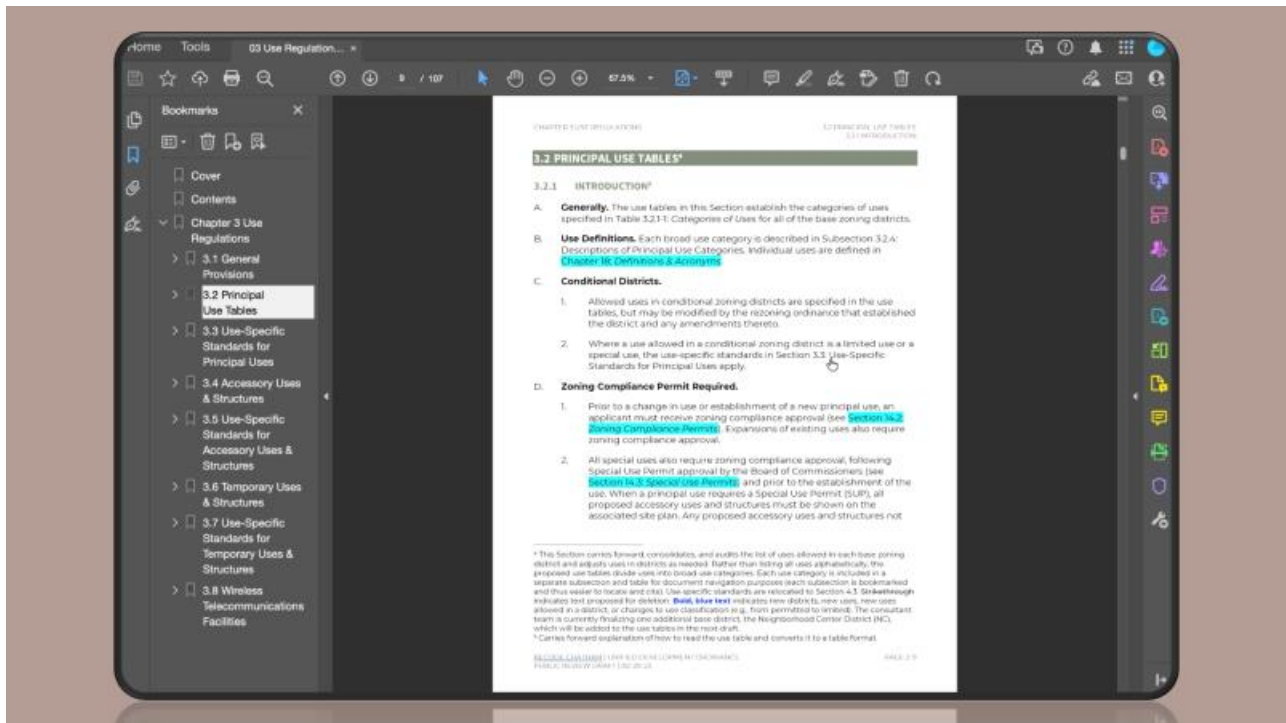
UDO PROJECT DOCUMENTS

- Separate PDFs for each Chapter
- Bookmarked and hyperlinked for easy navigation
- Footnotes explain proposed changes and indicate where current standards are carried forward

Zoning Module Review | March 6-7, 2023



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Documents & Work Products

UDO Zoning Module (February 20, 2023)

[Annotated Outline](#)

[Introduction](#)

[Zoning Districts](#)

[Use Regulations](#)

[Definitions & Acronyms](#)

www.recodechathamnc.org

Zoning Module Review | March 6-7, 2023

ZONING MODULE REVIEW

Chapter 1: *Introduction*

Chapter 2: *Zoning Districts*

Chapter 3: *Use Regulations*

Chapter 18: *Definitions & Acronyms (working draft)*

CHAPTER 1: INTRODUCTION

- Consolidates provisions from the Zoning Ordinance (ZO) & Subdivision Regulations (SR)
 - Purpose
 - Authority
 - etc.
- Section 1.4: *Applicability* includes bona fide farm exemption provisions

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BECOME CHATHAM | UNIFIED DEVELOPMENT ORDINANCE PUBLIC REVIEW DRAFT | 02-20-22 PAGE 12

CHAPTER 1: INTRODUCTION

- Clarifies relationship of UDO to Comprehensive Plan and other adopted plans
- Section 1.10: *Permit Choice & Vested Rights* recognizes vested rights as created by N.C.G.S. 160D-108

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CHAPTER 2: ZONING DISTRICTS

- Consolidates all zoning districts into a single chapter
- Three types of districts:
 - Conventional
 - Conditional
 - Legacy

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ISSUE DATE: 1/14/18 REVISED: 07/2018 PUBLIC REVIEW DRAFT | 02-23-23

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Chapter 2: Zoning Districts



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EXISTING DISTRICTS

District	Proposed Changes to Dimensional Standards
R5, R2	None
R1	Reduced lot size from 40,000 sf to 20,000 sf
OI	Increased height from 60 ft to 75 ft
NB, CB, RB	Increased height from 60 ft to 75 ft Increased side setbacks when adjacent to residential districts/uses
IL	Increased all setbacks from 50 ft to 100 ft Adds 75 ft height limit
IH	Increased all setbacks from 100 ft to 200 ft

- Mr. Mayer asked for some more clarification for the R-1 lot sizes regarding well and septic or public water and sewer. Ms. Cousino stated the 20,000-sf size lot would be only for public water and sewer utilities. If the lot is served by well and septic it would stay the current regulation of 1.5 acre size lot. Chair Lucier stated a lot of the properties in Chatham may have public water, but does not have sewers, but rather septic, is there a solution for that issue because we will see that scenario a lot. Mr. Sullivan stated in that scenario it will be the 40,000-sf size lot. There will be three different lot size designations. Ms. Cousino stated it is not written that way right now, but we will change the language to reflect that.

Chapter 2: Zoning Districts
Chatham, North Carolina
Google Street View

NEW RHC DISTRICT

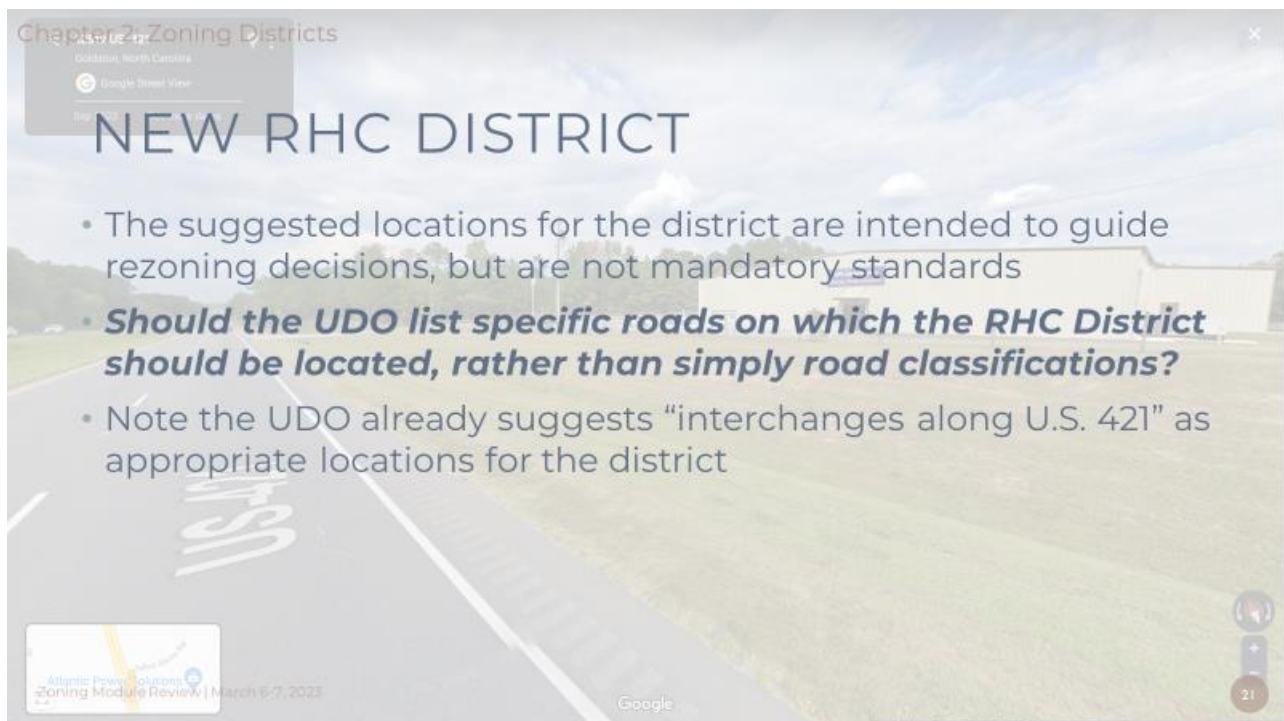
- Proposed to help address Focus Group concerns with the limitations of current R1 zoning in rural portions of the County
- Generally appropriate in areas designated as Agriculture on the Future Land Use & Conservation Plan (FLUCP) that are located along a principal arterial, minor arterial, or major collector road, or are located at the interchanges along U.S. 421
- May be appropriate in areas designated as Village & Village Center and Crossroad Community on the FLUCP if compatible with nearby land uses

Atlantic Power Solutions
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Google

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- Mr. Sullivan gave the Planning Board members a map showing the current NCDOT functional classification.
- Ms. Cousino stated what you are looking at right now is how the NCDOT has classified all the roads in the county. There are three types of principal arterials, major collectors, minor collectors, minor arterials, and local roads. Vice-Chair Spoon asked if we feel that those definitions suited for what we are looking for well, or is there major divergent there? Ms. Cousino stated generally yes, but they are some outliers such as Old 421 being a good example, that might be an appropriate corridor for this district, but the way it is classified wouldn't be subject to it. Ms. Cousino also mentioned that the road classifications are guidelines and not an ordinance, even if we did not change them and we felt a rezoning was appropriate we could approve it, but if we want to be more specific about it we certainly can be.
- Mr. Mayer asked what would be placed on these roads in the RHC district? Ms. Cousino stated there are a wide variety of uses, there are some heavier commercial uses, but no industrial uses. There are some agricultural uses such as equestrian centers, also healthcare uses, business and facilities support services, communication and information, research and development facilities, contractor storage yards, machine shop, sheet metal shop, and sign manufacturer. There is also a wide variety of retail uses allowed. There are many uses that will be allowed and we feel are appropriate along rural corridors.
- Ms. Robertson stated she is a little concerned about the RHC district by stating that district would work on all of these roads as a blanket statement because there are a lot of roads that I am not familiar with, and I not familiar with the RHC district and all of the uses permitted.
- Vice-Chair Spoon stated we are going to continue our work with the UDO subcommittee for those of you that are new members and want to be a part of those discussion because we are the group that digs deeply on each of these districts. This is 35-40% of the current project and where we are now, but if anyone would like to join the UDO subcommittee you are invited. Ms. Cousino stated your feedback is welcome anytime, Mr. Mullis isa the project manager, so just reach out to him and he will relay any questions or concerns to the consultants.



CONDITIONAL DISTRICTS

- Reduced from 11 districts to 3 districts
- Eliminates parallel conditional districts for all conventional districts, as well as Compact Communities & Mixed Use Conditional Districts
- Establishes new districts intended to implement the three mixed use districts recommended in *Plan Chatham*:
 - CD-CR, Compact Residential Conditional District
 - CD-CMU, Compact Mixed Use Conditional District
 - CD-CN, Compact Non-Residential Conditional District

Land Use Action Items

Priority Projects, Plans, Programs

Overall Action Item
Revise the regulatory framework through an update of the County ordinances and regulations. Create a Unified Development Ordinance by making amendments concurrently to ensure such changes work in concert and administration of the updated ordinances is streamlined.

Action Item 01
Facilitate well-designed mixed-use development in appropriate locations.

CONDITIONAL DISTRICTS

Why? Over-reliance on conditional districts (CDs):

- May reflect an inability of the current regulations to accommodate projects the community desires and to implement comprehensive plan policies in a consistent manner
- Reduces predictability in the development process, which can increase development costs and hinder business and economic development efforts
- Creates administrative challenges, as each CD is essentially a mini development ordinance
 - Over time, this can result in dozens of separate development ordinances for staff to monitor and enforce

- Chair Lucier stated it is kind of benefit verse risk by reducing the number of conditional districts, just like we had seen tonight, some of the public would have like to have seen conditional district rather than a general use rezoning. The conditional district has advantages, but at the same time the enforcement issues, the oversight of them whenever there is even a slight change it has to go through the whole process again which takes more staff time. It is a balance. Ms. Cousino stated that is true and hopefully with the changes we have proposed to the use table and the use regulations helps provide a little bit more predictability with the

general use rezonings because we can calibrate districts a little more specifically to the districts rather than have a big district that is a catch all for everything.

LEGACY DISTRICTS

- Districts will remain mapped, but no additional land can be rezoned to a legacy district
- Existing legacy districts cannot be expanded
- Development subject to all applicable UDO regulations and conditional district rezoning ordinances (if applicable)
- Current legacy districts:
 - B-1, General Business District
 - CD-B1, General Business Conditional District
- New legacy districts:
 - All current conditional districts

- Chair Lucier stated we will have a mix of the old and the new districts once the UDO is adopted so there will be a time period where things can get confusing and it may take several years as we transition.

CHAPTER 3: USE REGULATIONS

- Consolidates use table and use-specific standards
- Classification of new and unlisted uses
- Principal Uses
- Accessory Uses
- Temporary Uses
- Wireless Telecommunications Facilities

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CLASSIFICATION OF NEW USES

- Proposes a significant change from current ZO provisions, which state that any use not specifically listed is prohibited
- Establishes a process for the Zoning Administrator to determine whether and how unlisted uses are allowed
- Includes rules for determining whether an unlisted use falls within the definition of a permitted or limited use or requires an SUP

CLASSIFICATION OF NEW USES

- This business-friendly approach allows the County to quickly accommodate new and emerging land uses that are similar to other types of uses already allowed
- When an unlisted use is unlike any other use already listed in the use table, the Planning Board and Board of Commissioners could consider allowing the use through a UDO text amendment

- Mr. Sullivan stated there was a court case several years ago where there was a jurisdiction that has language similar to the way ours is now, if the use is not listed it is deemed prohibited, and that was invalidated by the courts. We have to make accommodations for all of our uses and currently we have a few band-aids in our ordinance we have inserted to try and address that, but we need to make that more formalized in the UDO process. Vice-Chair Spoon stated is there a threshold where if we get a lot of applications for one type of thing where we might look at it differently? Mr. Sullivan stated the band-aid is if the use does not fit into a category it is automatically a special use permit which will kick it out of administrative review.

PRINCIPAL USES

- Four types:
 - Permitted
 - Limited
 - Special
 - Prohibited

Notation	Category	Description
P	Permitted Use	The use is allowed by-right in the respective zoning district, if the use complies with all other applicable provisions of this Ordinance.
L	Limited Use	The use is allowed only when it complies with the applicable use-specific standards in Section 3.3: <i>Use-Specific Standards for Principal Uses</i> or Section 3.8: <i>Wireless Telecommunications Facilities</i> , as applicable, in addition to all other applicable provisions of this Ordinance. The second column in the Principal Use Tables reference the subsection containing the applicable use-specific standards.
S	Special Use	The use is allowed only if reviewed and approved in accordance with Section 13.3: Special Use Permits and complies with the applicable use-specific standards in Section 3.3: <i>Use-Specific Standards for Principal Uses</i> , in addition to all other applicable provisions of this Ordinance. The second column in the Principal Use Tables reference the subsection containing the applicable use-specific standards.
[blank cell]	Prohibited Use	A blank cell indicates that a use is not allowed in the respective zoning district, unless it is otherwise expressly allowed by other provisions of this Ordinance.

PRINCIPAL USES

- Four types:
 - Permitted
 - Limited
 - Special
 - Prohibited

Chatham County Zoning Ordinance

Zoning District	R5	R2	R1	O&I	B-1*	NB	CB	RB	IL	IH
Automobile service stations including tune-ups, minor repairs, tire service, washing facilities both manual and automatic and similar services. ¹					P	P	P	P		P
Aviation/aerospace equipment, engine and instrument manufacturing and/or assembly. (Subject to additional requirements of Section 17.9)										SUP ²
Avocational Farming	P	P	P							
Bait and tackle shops					P	P	P	P	P	P
Bake shops and similar food preparation intended primarily for retail sales on the premises for consumption either on or off premises					P	P	P	P		
Bakeries or baking plants									P	P
Banks, savings and loans, finance companies, credit agencies and similar financial institutions					P	P	P	P		
Battery Manufacture (Subject to additional requirements of Section 17.9)										SUP
Beauty Shops, Salons					P	P	P	P		
Owner-occupied bed and breakfast homes with no more than two (2) rooms (units) for rent for stays no longer than seven (7) consecutive days and may be located on legal, non-conforming and conforming lots of record, on at least one and one half (1.5) acres, which may have standard setbacks as set in the district in which it is located	P	P	P							
Bed and breakfast lots with no more than six rooms for rent with a minimum lot area of three acres and provided that all buildings, structures and high intensity activity areas shall be set back a minimum of two times the minimum yard requirement for the district in which it is located	SUP	SUP	SUP					P	P	
Bedding, carpet and pillow manufacturing, cleaning and renovating										P
Bicycle sales and repair						P	P	P		P
Blacksmith or horseshoeing shops						P			P	P
Blueprinting and Photostatting establishments									P	P
Boarding kennels (See Section 17.3 for acreage requirements)		SUP	SUP	SUP			P	P	P	
Boat, trailer and other utility vehicle sales and service						P				SUP
Boat Storage Facility						SUP	SUP	SUP	SUP	SUP

¹ Fuel, oil and air filters pumps and app hoses may be located in the minimum required front and side yards provided that none shall be located closer than 15 feet to a city street line and may be covered by an attached or free standing enclosed canopy provided such canopy does not extend more than five feet to any property line and does not cover greater than 20% of the required set area.

² When Chatham County Water or Town of Sanford Water and Sewer Infrastructure is utilized the use is allowed by right.

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PRINCIPAL USES

- Divided into broad categories, e.g.:
 - Agriculture & Horticulture
 - Business, Professional, Scientific, & Technical
 - Heavy Commercial, Manufacturing, & Industrial
 - Residential
 - Retail, Service, and Food & Beverage

CHAPTER 3 USE REGULATIONS 3.2 PRINCIPAL USE TABLES
3.2.15 RESIDENTIAL PRINCIPAL USES

3.2.15 RESIDENTIAL PRINCIPAL USES

Table 3.2.15-1: Residential Principal Uses

Land Use	Use-Specific Standards	Zoning District																		
		PD	AG	RA	R5	R2	R1	RV	OI	NB	NC	AC	CB	RB	RHC	IL	IH	CD-CR	CD-CHU	CD-CN
Apartment Complex ⁹									S		P	P	S	S				P	P	P
Cottage courts	3.3.7																	L	L	
Two-family dwellings (duplex)						P	P				P							P	P	
Family Care Homes	3.3.11				L	L	L				L							L	L	
Multi-family dwellings											P							P	P	
Single-family attached dwellings (townhouses)											P	P						P	P	
Single-family detached dwellings (including site built, modular, and manufactured)			P	P	P	P	P				P							P	P	

⁹ The current definition of apartment complex notes the individual dwelling units in an apartment complex "may be leased separately or developed as condominiums" (ZO Section 7 Definitions), so there is no need to list condos here.

BECD/C/03/2023 | UNIFIED DEVELOPMENT ORDINANCE PUBLIC REVIEW DRAFT | 03-20-23 PAGE 3-30

INDUSTRIAL USES

- Approx. 79 uses consolidated into 26 uses
- Includes three broad categories for industrial uses:
 - Heavy
 - Light
 - Restricted
- Definitions of the three categories (in Chapter 18) are very specific and include use examples as well as NAICS industry groups
- Any use involving dangerous materials is a "restricted" use

CHAPTER 3 USE REGULATIONS 3.2 PRINCIPAL USE TABLES
3.2.15 HEAVY COMMERCIAL, MANUFACTURING, & INDUSTRIAL PRINCIPAL USES

3.2.15 HEAVY COMMERCIAL, MANUFACTURING, & INDUSTRIAL PRINCIPAL USES

Table 3.2.15-1: Heavy Commercial, Manufacturing, & Industrial Principal Uses

Land Use	Use-Specific Standards	Zoning District																		
		BP	AG	RA	RA	R2	R1	RV	OI	NB	NC	AC	CB	RB	RHC	IL	IH	CD-CR	CD-CHU	CD-CN
Dye stuff manufacture and dyeing plants																	S	S		
Electrical equipment, appliance, and component manufacturing																			I	
Industrial uses, heavy, unless otherwise listed																			P	
Industrial uses, light, unless otherwise listed																			P	P
Industrial uses, restricted, unless otherwise listed																			S	
Laundries, steam														S				P	P	
Machine shops																		P	P	
Meat processing and packing																			P	

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- Chair Lucier asked when you refer to automatically restricted does that mean it is a special use permit? Ms. Cousino stated yes, any restricted use requires a S.U.P.

INDUSTRIAL USES

Why?

- A best practice is to consolidate uses where possible and separately regulate certain uses where needed
- Intent is to provide sufficient specific parameters for the Zoning Administrator to make use determinations
- Distinctions generally maintain current SUP requirements for industrial uses, except for the following (which could be regulated separately):
 - Animal slaughtering & processing (non-farm)
 - Metal manufacturing
 - Textile mills
 - Tar manufacturing

- Chair Lucier stated he is a toxicologist and speaks from some experience, metal manufacturing, textile mills, and tar manufacturing should be required as special use permit. There are risks involved in those manufacturing that should be considered.

USE-SPECIFIC STANDARDS

- Apply to uses designated as “limited” or “special”
- All limited uses, but not all special uses, have use-specific standards
- Many standards carried forward
- New uses/standards added, e.g.:
 - Corner stores
 - Gas stations
 - Solar energy systems
 - Tobacco retailers

CORNER STORES

- A small retail or service business located on a corner lot at the street level
- Limited use in AG, RA, R5, R2, R1, CD-CR, & CD-CMU
- Businesses limited to: newsstands, bookstores, barbershops, beauty salons, bakeries, ice cream and yogurt shops, coffee shops, delis, food and convenience markets, and art galleries
- Max gross leasable area = 2,000 sf
- Max 2 per intersection
- Drive-thrus and gas pumps prohibited



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GAS STATIONS

- Limited use in RA, RV, CB, RB, & RHC
- Max of 4 fueling pumps in the RA & RV Districts
- Requires 1/4-mile separation between a new gas station and:
 - An existing gas station
 - Any lot zoned R5, R2, R1, or CD-CR
 - Any lot containing a dwelling unit
 - Any lot containing a hospital, inpatient care facility, nursing home, or convalescent home
- Carries forward current setback and canopy standards for automobile service stations



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- Mr. Frazier asked, what is the logic in dispersing gas stations rather than concentrating them? Ms. Cousino stated it helps limit the number of gas stations by spreading them apart and to also not concentrate the negative impact of gas stations. Mr. Frazier stated it seems like we are spreading the negative impacts around. Ms. Cousino stated it is intended as a disincentive for gas stations.
- Ms. Robertson asked if EV charging stations will be considered in the same category? Ms. Cousino stated we have created a new category for EV charging stations and we are distinguishing between EV charging in an office building or an apartment complex that would be

considered an accessory use. but large scale EV charging that is similar to a gas station will be allowed in more districts than where gas stations are allowed.

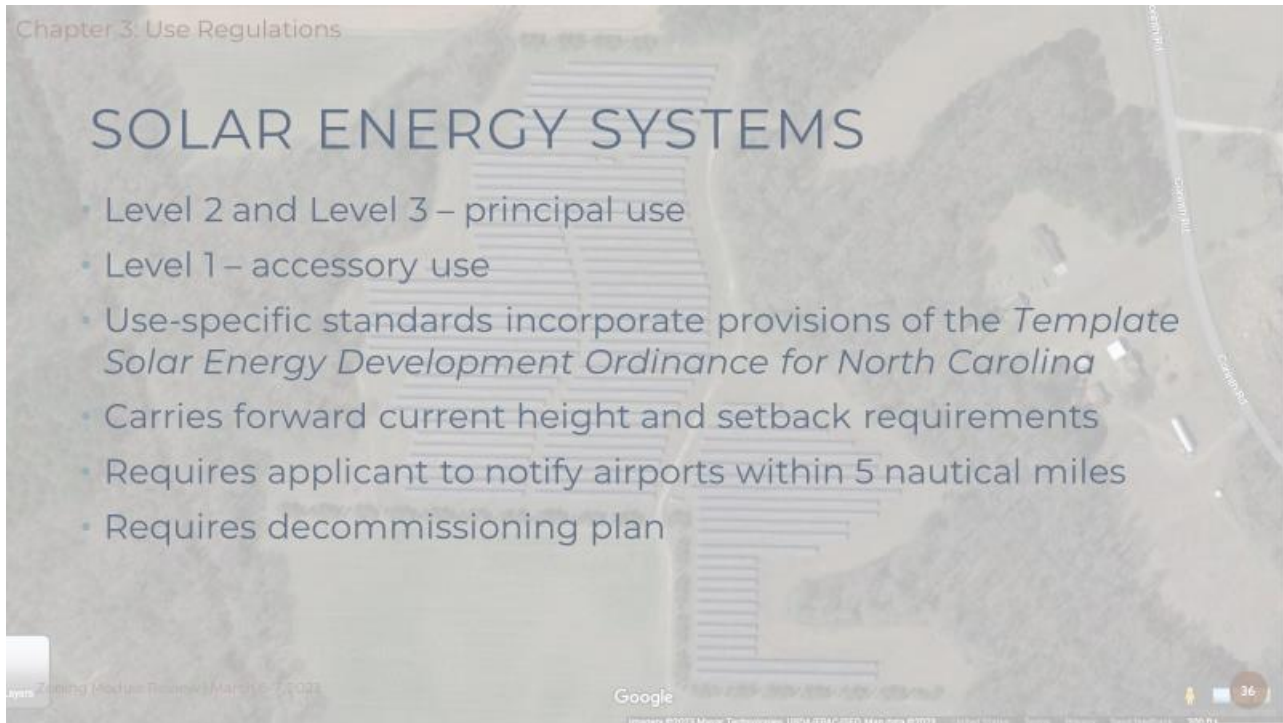
Chapter 3: Use Regulations

SOLAR ENERGY SYSTEMS

- Level 2 and Level 3 – principal use
- Level 1 – accessory use
- Use-specific standards incorporate provisions of the *Template Solar Energy Development Ordinance for North Carolina*
- Carries forward current height and setback requirements
- Requires applicant to notify airports within 5 nautical miles
- Requires decommissioning plan

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Chapter 3: Use Regulations

TOBACCO RETAILERS

- Limited use in CB, RB, & RHC
- Requires 1/4-mile separation between a new tobacco retailer and:
 - An existing tobacco retailer
 - Any lot zoned RA, R5, R2, R1, or CD-CR
 - Any lot containing a dwelling unit
 - Any lot containing a day care center, preschool, or school
 - Any lot containing a park or playground
 - Any lot containing a hospital, inpatient care facility, nursing home, or convalescent home

Google Street View

Aug 2018

PA TOBACCO & VAPE

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- Chair Lucier asked if that would include convenient stores which sell cigarettes? Ms. Cousino stated no, tobacco retailer is defined as a use that is primarily engaged in the sale of tobacco products and tobacco paraphernalia's. There is an element of subjectivity there, but if there is a concern we can put a number on it. It can be difficult to enforce as saying if 50% of sales is tobacco then it is classified as a tobacco store. Again, difficult to enforce but might not be a bad idea to have a matrix in place.

ACCESSORY USES

- Created two tiers:
 - Major (e.g., detached garages, workshops, pools, gazebos)
 - Minor (e.g., fences, well houses, gardens, play equipment)
- Major accessory uses and structures require Zoning Compliance approval, but most minors do not
- Major accessory uses and structures must meet district setback requirements, minors require 0 ft to 10 ft setback
- Use-specific standards included for certain uses (e.g., ADUs, child care, farmstands, home occupations)

ACCESSORY USES - HEIGHT

- **Major** (e.g., detached garages, workshops, pools, gazebos)
 - Same max height as principal uses in district, except in RV
 - RV = 2 stories (principal structures = 3 stories)
- **Minor** (e.g., fences, well houses, gardens, play equipment)
 - Max height = 15 ft
- ***Are these height limits appropriate?***

- Mr. Frazier asked about the height of flagpoles. Ms. Cousino stated the 15' height limit is not sufficient for a flagpole so we are going to remove it and we can add a specific limitation to flagpoles.
- Vice-Chair Spoon asked why are there places where the height is measured in stories and others are measured in feet, why isn't there more consistency for measuring height? Ms. Cousino stated the Rural Village district is the only district measured in stories and that is because in Plan Chatham the recommended height is measured in stories, and we wanted to consistent with that language, but it can easily be changed to feet if it is agreed for the UDO to have that consistency. Vice-Chair Spoon stated to have as much consistency throughout the

UDO is preferred. Mr. Sullivan stated as for staff, we are comfortable for the Rural Village district to be measured in feet for consistency.

- Chair Lucier asked if a storage shed is considered a major structure? Ms. Cousino stated yes, it is considered a major structure. Chair Lucier stated we might want to consider having a size limit as a minor accessory for a storage shed, a certain height and square footage. That could be a burden on our staff for all of the zoning compliances required for a small shed. Ms. Cousino asked staff if there is a minimum size requirement for a building permit? Mr. Sullivan stated as far as a building permit, if the structure is less than 12' in dimension you do not need a permit, however they are required to get a zoning compliance and a flood plain determination, we do not have an exemption for those.
- Ms. Cousino asked if it would make sense to add the storage shed to minor structure with a designated square footage, so a zoning compliance was not required? Mr. Sullivan stated no, we still need to make sure the structure is meeting the required setbacks because we do not want people putting things too close or over someone else's property line. Mr. Jones asked if a concrete foundation makes it a permanent building, because there are some areas that have a concrete foundation, but a vinyl type storage structure. Mr. Sullivan stated for Planning, if it has a roof supported by walls, it is considered a structure and will require a zoning compliance. The other big piece for flood plain management is to make sure it is not going to be located in a flood plain, because we are audited on that program by the State. Ms. Cousino asked if there was any structure size the staff would feel comfortable not requiring a zoning compliance? Mr. Sullivan stated we do not require things like a dog house, but when people come into the office and start asking questions about a playhouse, we are able to ask probing questions as to how big is this playhouse going to be. It can help weed out what is required and not required. The board had some discussion about all different types of structures and what makes it a permanent structure or not. Mr. Sullivan stated regardless, the structures need a zoning compliance and flood plain determination.

Chapter 3: Use Regulations

TEMPORARY USES

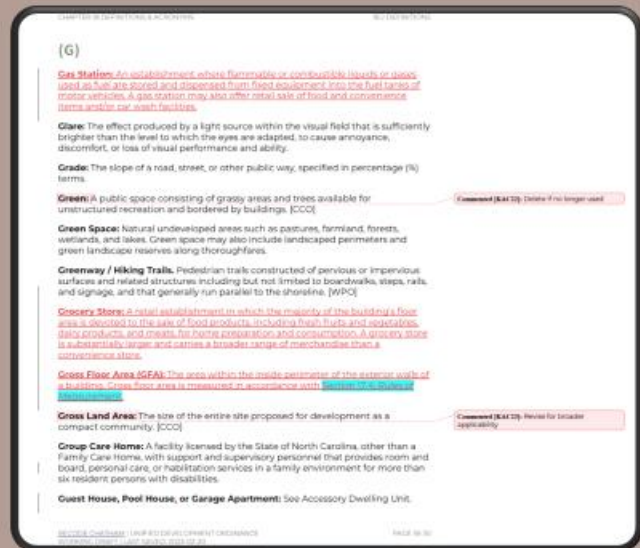
- Carries forward, consolidates, and expands existing regulations for temporary uses
- Adds provisions for common temporary uses, such as seasonal tree and pumpkin sales lots, mobile vending, and filming and production activities
- Use-specific standards included for four uses (farmers' & artisans' markets, laydown & storage yards, mobile vending, seasonal farmstands)

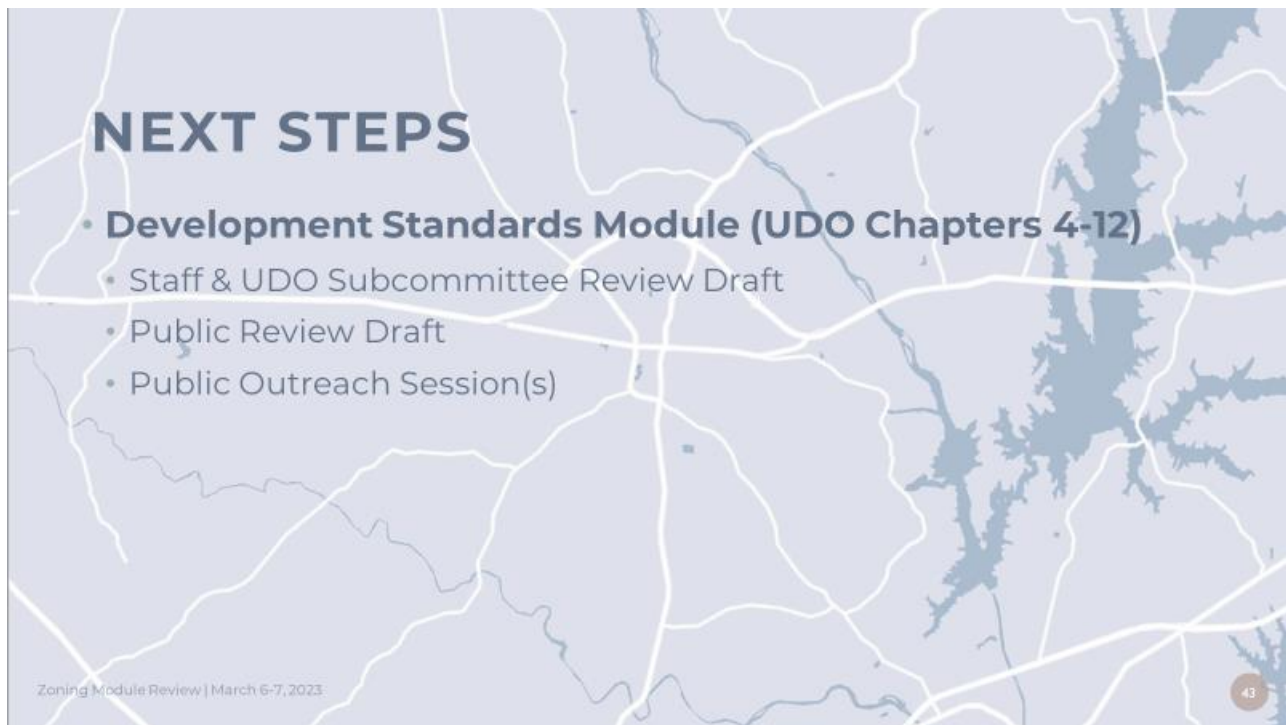
WIRELESS TELECOMM FACILITIES

- Carries forward current Wireless Telecommunications Facilities Ordinance (last updated in April 2019)
- Includes minor updates to reflect its transition from a stand-alone ordinance to a part of the UDO
- Removes references to un-zoned areas
- Replaces references to Conditional Use Permits with Special Use Permits

CHAPTER 18: DEFINITIONS & ACRONYMS

- Consolidates definitions into a single chapter
- Adds acronyms
- Tracks changes to current definitions
- Will be updated as part of each module and finalized at end of the drafting process





- Ms. Cousino concluded the UDO presentation and asked the Planning board if they had any questions, comments, or concerns.
- Vice-Chair Spoon stated he has some big picture questions, the UDO subcommittee is where we look at topic specifically and if you have specific questions please feel free to offer those questions and site them as best as you can within the presentation so the consultants can spot them effectively.
- Vice-Chair Spoon asked how are we handling the areas that intersect with our local ETJ's, we have large ETJ's in the county and they will have different rules than us, will they be close to what we have or not? Mr. Sullivan stated they will probably not be consistent, the towns ETJ's will have some of the same nomenclature such as agricultural residential, but lots sizes wouldn't be the same as the county. Vice-Chair Spoon asked if we would have consistency with Cary and Apex. Mr. Sullivan stated with Cary we have the Cary Joint Plan, and that is set in stone. Regarding Apex, they do not have an ETJ so their annexation into the county thus far has all been for commercial and industrial use, which generally matches with our employment center location on our Future Land Use map. Vice-Chair Spoon asked if there might be any potential to convince the municipalities to adopt something similar to what we have. Mr. Sullivan stated we can share the information with the municipalities and we will especially when we have dialed in our zoning regulations, during Plan Chatham we went to all the town boards and presented information and their feedback to make sure they were comfortable with what we were recommending.
- Vice-Chair Spoon stated we would like to see as much coherence as possible with the tables, sometimes we use dots and blanks, or X's and blanks, sometimes we use letters and blanks, getting that to be as synchronized as possible make it more easily readable document. Vice-Chair Spoon also asked where are we drawing the lines regarding limited and special designations and who is the authority on either one of those designations? Ms. Cousino stated limited use will be a staff level approval, they will make sure the use meets the use specific standards that are called out in Chapter 3. Special uses will still come before the Planning

Board and the BOC for approval. Vice-Chair Spoon asked if someone has an idea for a use or a location, but it doesn't really exist in the table of uses or isn't completely clear where it would fall, can they still apply for a S.U.P.? Ms. Cousino stated if the use is listed within the table of uses it is subject to whatever the designation is in the table, if it is not listed in the table then it goes to staff for interpretation to see if it is like another permitted use or if it does require a S.U.P., or if something is so different from anything in the use table and not comfortable classifying it, in that case it would be prohibited. The UDO can always be amended if a use comes to pass that we would like to add to the table.

- Vice-Chair Spoon asked who said 75' is too tall for a building, is it the fire department? Ms. Cousino stated 75' is the maximum a fire department can serve. Vice-Chair Spoon stated don't they require sprinkler systems anyway at that height? Mr. Sullivan stated yes, they will require sprinkler systems, but it is if someone is stuck on the upper floor and a ladder truck would need to retrieve them. Vice-Chair Spoon stated we don't need to have skyscrapers, but if it makes sense from a density modal we don't want to hold it back because we don't have the right size fire trucks. We are moving into the future quickly.
- Ms. Robertson asked is there a way to include in the code something that would specify that this height limitation is in place because of the current limitation of the ladder trucks in Chatham County and if at such a time the equipment changes the height restriction could be revisited or is there a way to leave that a little more open? Ms. Cousino stated there will be a section in the code for rules of interpretation and within that there will be height exceptions, such as chimneys or steeples, those would not be subject to the height limit, so that might be the appropriate place to put this idea of taller structures. It would still require a UDO amendment in the future if fire trucks could serve 100' structures. Ms. Robertson stated it might be a good idea to mention why this height restriction is in place so we can remember that. Ms. Cousino stated that is a good idea and will make note of it.
- Vice-Chair Spoon asked when we have open ended or undecided type of situations are we just deferring to State standards most of the time? Ms. Cousino stated we do in some situations, but we also look to other established standards in peer communities because it is good to have consistency and what is appropriate. Vice-Chair Spoon stated we do want to be special and protect the things that are essential to what makes Chatham County who we are. Mr. Sullivan stated there are some things we try to be more consistent with the State rules like the resent issues with day care centers, we want to be as consistent as we can with the State rules just because it makes it easier for the applicant. Mr. Sullivan stated he agrees and we do not want to just have the minimum State standards, we want to be more restrictive.
- Mr. Mayer asked what is the process for getting these new zoning districts into our zoning map? Ms. Cousino stated at this point we have not proposed mapping any of the districts, it would be up to a property owner coming in and making a request for a certain district. Mr. Mayer stated then everything will be considered legacy district. Vice-Chair Spoon stated until someone asked to change it. Is it the cost that is the major holdback on going parcel by parcel and having an updated map to where all the district stand? It would be a huge project to map the county parcel by parcel, but it would be very useful tool. Ms. Cousino stated a lot of communities do completely rezone the county and there are others that do not rezone at all. It is up to you as to how much you want to take on.
- Vice-Chair Spoon also asked if at the end are we going to receive a Word document and a map or is there going to be an interactive tool online we can utilize? Ms. Cousino stated our deliverable would just be PDF and Word documents, there are a number of interactive code codification websites that are great and interactive which can tie to GIS maps, but it is a matter of funding and how the county would want to proceed with the codification.

- Mr. Sullivan stated it is worth starting to think about what Mr. Mayer has brought up about rezoning the districts because if you look at the new districts; parks and protected lands, agricultural district, agricultural residential district, the conservation district is equivalent to an R-5, and the rural residential which is equivalent to R-2 as well as R-1. We really need to look at the Future Land Use map and start to think about those districts and where do those districts look like they would apply and how we want to roll this out. What would that zoning map look like. Mr. Sullivan stated in 2016 we had more unzoned than zoned and we went through that rezoning process and that is how you proactively implement the big picture. Chair Lucier stated in the material that was prepared the activity center is only along Hwy 15/501 between Orange County and Pittsboro. Ms. Cousino stated that was tied directly to the Future Land Use map and that district is the most specific in terms of where it is recommended to be implemented. The other districts are tied to just general Future Land Use. Chair Lucier stated it should not be too prescriptive, because things change.
- Mr. Sullivan stated if we switch to high density option then we will need to change zoning districts because there is going to be an interconnection between the possibility of changing our watershed protection process and then the zoning taking over for the regulations, but in order for that to work we will have to have massive rezoning in the county and we have done major zonings before. Vice-Chair Spoon asked if we switch from low density to high density, will it be as the county as a hole o district by district. Ms. Cousino stated right now they are only looking at the high density option in the Moncure area within the Small Area Plan.
- Vice-Chair Spoon stated we are still allowing private airports in all zoning districts, is that a change that has come through, it seems like a friction point that is unnecessary. If the airport already exists it can be grandfathered in, but to have planes flying over people's homes is not a good look for us. Also, there is a definition regarding drones and feel that drones are different than an airplane. Ms. Cousino stated you are correct, they are allowed as an accessory use in all the zoning districts, it does require notification to the FAA and compliance with their notification of their construction process, but if there is an appropriate list of districts, we can limit it to them. Vice-Chair Spoon stated he does not feel that the FAA cares how mad our neighbors get, but limiting that to some degree at least the high density zonings.
- Mr. Sullivan stated on the staff side that is something we wanted brought up because we have had people purchase land in Chatham County and live in Wake County and they just want to keep their helicopter or plane in Chatham, and we need to deny them because it is not a principle use. We definitely want clarification because they do cause problems and further restrictions will not be a bad thing. The largest house permitted in Chatham last year was over 20,000 square feet, if people have that much money, they can afford planes and helicopters, so we will likely see more requests popping up if they are allowed.
- Vice-Chair Spoon stated there are some things we need to regulate, but also did remove the chicken and rooster restrictions get removed? Mr. Mullis stated it is not out yet, but we plan to remove it.
- Vice-Chair Spoon stated Mr. Mullis has been championing this process throughout and has been a great conduit to a fantastic consultant team that has been working so hard with this UDO process. He is open to communication if you have any questions or concerns and if you have questions for me as well please do not hesitate to ask. If anyone wants to be a part of the UDO subcommittee you are welcome, Chatham is changing fast and we need to figure out how to do it the right way.
- Chair Lucier thanked Ms. Cousino for the presentation and stated he has been very pleased with the progress that has been made on the UDO.

IX. NEW BUSINESS:

- Chair Lucier stated in April we will hold the annual election of the Planning Board Chair and Vice-Chair.

X. BOARD MEMBERS ITEMS:

1. Update from the Planning Board liaisons.

- Chair Lucier stated he has been the Pittsboro Planning Board liaison, but it is hard to attend with everything else going on and asked if any of the new Planning Board members would be interested in being the liaison going forward to let him know. Vice-Chair Spoon stated we are also looking for volunteers for the Siler City and Agriculture Advisory Board liaison as well. It is helpful to get insight on everything that is going on around us in all the jurisdictions. Mr. Mayer stated he will consider Pittsboro liaison but wants to start with the UDO subcommittee. Mr. Sullivan stated it might be good to have a Goldston Planning Board liaison as well because a lot is going on there. Ms. Robertson stated she will also consider being a liaison but would like to have a few Planning Board meetings first and see how her schedule works out.
- Vice-Chair Spoon gave an update on the Planning Board UDO subcommittee. We meet virtually for those meetings and try to keep it to an hour, and we normally start at 6:30pm. Our last meeting, we covered the Watershed Protection chapter, and it was a big change in how Chatham County had looked at things for years, but it can be a good change if the rules are crafted correctly. Our meeting dive much deeper, we look at each page line by line and ask question or make suggestions as needed. Mr. Mullis stated he wanted to add that we also have ex-officio members from other advisory boards attending the UDO subcommittee meetings.

2. Discuss and decide the April Planning Board meeting location.

- Chair Lucier stated when we started meeting in person again after Covid and each meeting we decided to discuss if we will be meeting in person or virtually. The Board discussed the option, and all felt meeting in person is the best way to proceed. The April meeting will be help in person at the Agriculture and Conference Center.

XI. PLANNING DIRECTOR'S REPORTS:

Mr. Sullivan reported on the following:

1. Minor Subdivision spreadsheet
2. Unified Development Ordinance Update
 - Mr. Mullis stated we are continuing to work on drafting.
3. Moncure Site Area Update
 - Mr. Mullis stated the first community meeting open house will be on March 21st at the Moncure school from 4:30 to 7:30. We have been advertising for this meeting, so we hope to have a good turnout. This meeting will be very structured with different departments and stations to discuss the Plan. We also had some drop-in sessions at the Moncure fire department which have been informative and we have heard a lot of different concerns and comments.

XII. ADJOURNMENT:

There being no further business, the meeting adjourned at 9:30 p.m.

Signed: _____ / _____
George Lucier, Chair Date

Attest: _____ / _____
Dan Garrett, Clerk to the Board Date