

Meeting Minutes

Chatham County Environmental Review Advisory Committee (ERAC)

May 11th, 2023 - 6:30 p.m.

Remote Meeting via Zoom

Attendance

Staff: Hollie Squires the Recording Secretary to the Environmental Review Advisory Committee, Rachael Thorn Watershed Protection Director, Jason Sullivan Planning Director, and Chance Mullis Planner II.

Members Present: Jeannie Ambrose, Mary Beth Koza, Elaine Chiosso, Alicia Koblansky, Amy Fulford, Diana Hales, Frank Stillo.

Members Absent: Heather Holley, Andrew Clark, Jeanette Ragland.

Guests: Geoff Green a consultant with Clarion Associates, under the main UDO consultants White and Smith.

1. Call to Order @6:30 pm

2. Virtual Meeting Guidelines

- Please keep microphones muted.
- Use the Chat Function if microphones fail or for connectivity issues.

3. Approval of meeting minutes - April 2023 minutes approved via Roll Call with minor changes.

4. Public Input. None.

5. Presentation of Chapter 9 of the Unified Development Ordinance Draft

- Chance Mullis with the Planning department gave a brief presentation of Chapter 9, Watershed Protection.

The questions and answers have been moved to the bottom of the minutes to keep everything together.

6. Announcements and Updates:

- Planning Board Update from Jeannie Ambrose.

Elizabeth Haddix is a new board member and had her first meeting in May. They elected their Chair-George Lucier and Vice-Chair-Jon Spoon. A few subdivisions were approved. Plan Moncure had their last meeting on April 28th, and they developed FAQs from the community.

- Climate Change Update from Alicia Koblansky.
They are working on a dashboard to work with the county to focus on major points and efforts for the group on climate issues.

7. **Adjournment** Frank Stillo motioned, Mary Beth Koza seconded. Voted by acclamation. @8:40 pm

Notes and Questions from ERAC discussion, April 13, 2023 UDO DRAFT #1 Chapter 9 Watershed Protection

Page 4 9.2.1

Applicability, General

“Land subject to extraterritorial jurisdiction may be exempted from application of this Chapter pursuant to an interlocal agreement between the County and the municipality within the extraterritorial jurisdiction.”

Question: Are these interlocal agreements currently in place (with Pittsboro, Siler City)?

Yes, the agreements are in place. The agreement was adopted in 1993 exempting the ETJ's for Pittsboro and Siler City from the Chatham County Watershed Protection Ordinance.

Page 7 9.3.2

B. Amendment

(This new provision allows landowners an opportunity to justify a change in the watershed boundaries.

Note: Since this deals with changes in the watershed boundaries, we believe the Watershed Review Board, not the Planning Board, should be the entity reviewing the request for changes.

This will continue to be reviewed by the Watershed Review Board.

Page 8

Table 9.4 1-1 Maximum Development Intensity

Note: 50% seems high for built-upon area in watershed critical areas WS-III-CA and WS-IV-CA.

They are high but they are just a starting point, and they will be looked at further. They are meant to be paired with the Zoning Ordinance.

B. Built-Upon Area

2. For purposes of this Subsection, the built-upon area of a lot containing a single-family (detached) dwelling shall be calculated as 100% of the lot's area.

Note: ERAC members did not fully understand this provision, despite further explanation in footnote 11.

The purpose of this is not to have someone build on the entire lot but to allow people to make small changes to their property without them having to get permission from the county for every small project. The goal is to make it so you look at zoning to see what you can build on your property. The table is what the state regulations are.

Page 9 9.4.1.

C. Density Averaging

2. Land that is being used to meet vegetative buffer requirements, protected by conservation easements, or protected from development **for other reasons** is not used for density averaging.

*Question: More details or explanation of "other reasons"?
Want the language to be more specific.*

Page 10 9.4.1

C. 7

Questions: Is "sheet flow" the same as diffuse flow? How is "maximum extent practicable" defined?

Definition of Maximum Extent Practicable- "the degree to which a project meets an adopted standard, in which all possible efforts to comply with the standard or to minimize harmful or adverse effects have been undertaken by the applicant, but full compliance cannot be achieved, and no feasible or practical alternative exists as determined by the planning director. Economic considerations may be taken into account but shall not be the overriding factor determining maximum extent practicable."

Page 10 9.4.2

Table 9.3.2 Uses Prohibited in Watershed Areas

Question: Is this Table complete? Why are industrial wastes and other polluting activities allowed in RC and RCSA, and Critical Areas?

This is to be combined with zoning districts. Would like to make the table clearer. The state regulates the table information.

Page 13 9.5.2 Conservation Subdivisions

- A. Areas of concentrated development shall be located in upland areas and away, to the maximum extent practicable, from surface waters and drainageways, considering site-specific factors such as topography and site layout as well as protection of water quality.

Note: Consider adding Upland Natural Heritage Areas as a site-specific factor

Page 13 9.5.3 Vegetated Setbacks

Note: If the section on Riparian Buffers has not been drafted yet, it would be better to leave this blank

These will go away since they are making a riparian buffer section.

Page 14 9.5.4 Public Health Regulations

Note: Reports to the Watershed Review Board from the Watershed Review Administrator about threats to water quality and actions by the WRB to correct these violations is in the current Watershed Protection Ordinance but has not been a regular part of our functions. We would like to discuss this more.

Also - given the number of recent rail corridor accidents resulting in pollution to waterways, this could be added to Section A.

Page 16 9.6.1

B. Watershed Review Board

- (b)** No member shall participate in or vote on any quasi-judicial matter, such as an administrative appeal or a request for a variance, in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include but are not limited to **a member having a fixed opinion prior to hearing the matter that is not susceptible to change.**

Note: This provision seems inappropriate and unenforceable. It is not in the current Watershed Protection Ordinance.

This is a state law, it is to be a reminder to the board to keep impartial opinion.

The Powers and Duties section B.2 omits the Public Health Article 400 which is listed in the current WPO, and is written in this draft in Section 9.5.4

Additional Comments, from Diana Hales, ERAC member:

In the ReCode Chatham Audit Report (May, 2022) section on Watershed Protection, three ideas were mentioned “could” impact watershed protection:

- (1) County should consider expanding flood regulations to include the 500-year floodplain, increasing the size of riparian buffer areas.
- (2) County should explore options for “incentivizing” additional buffer widths in accordance with State law, while ensuring continued maintenance, over time.
- (3) Zoning ordinance makes no mention of Watershed Protection Ordinance in the context of allowed uses, consultants suggest OVERLAY zoning districts to implement watershed protection requirements. Those might be good questions for Jason Sullivan next time.

About Chapter 9

1) Page 9-3, footnote 1: Subdivision regulations: Does WRB want any review during subdivision process? As I understand the footnote, the current Ordinance provided no “affirmative” review duties, and consultant recommends procedures to be set so that Watershed Administrator reviews. No word pertaining to WRB. Then again, see footnote 27. It is confusing.

2) Page 9-5, Table 9.3-1. WS-II-CA is mislabeled. Should be WS-III-CA

3) Page 9-7, A Intensity Standards. Why are these built-upon densities higher here than for zoning?

4) Page 9-8, footnotes 10 and 11. I read this twice and now assume this entire section only applies to SUBDIVISIONS with multiple lots, rather than a single purchase of land to build a home. Or I am incorrect?

5) Page 9-10, footnote 13. Why is low-density development “no longer” an option??

This is not applicable anymore if we went to high density.

6) Page 9-11, table 9.3-2 Uses Prohibited in Watershed Areas. On table why not PROHIBIT in WS II-BW and WS III CA, both New permitted residual land application, and New permitted petroleum contaminated soil sites?

7) Page 9-11. Agriculture, the setbacks should be 20-foot, per ncagr.gov HARD TO FIND SPECIFICS on Agriculture setbacks since NO one wants to constrain farmers. Forestry is 20 ft.

8) Page 9-12. C. if change flood hazard area to 500-years, need to change this item about "...buildings, equipment, or material storage shall not be located within the 100-year flood hazard area..."

Mainly nonexistent in Chatham County.

9) Page 9-13, section 9.5.4. Question for Rachel as Watershed Administrator. Has she found conditions that pose a threat to water quality and REPORTED to Watershed Review Board? Second, what is the process for WRB to take appropriate action? I THINK THIS ITEM WAS DISCUSSED AT ERAC.

This is out of the Watershed Ordinance now. Is there more work Watershed Review Board needs to be doing? They would like to have more updates on things happening in the county.