



**CHATHAM COUNTY
BOARD OF COMMISSIONERS
AGENDA ABSTRACT**

ITEM NUMBER:
MEETING DATE:
1-16-07

PART A

Subject: Request by the Chatham County Board of Commissioners for a revision to the Chatham County Moratorium Ordinance to amend Section 7, Exemptions of Ordinance, to remove sketch design from the list of exemptions.

Action Requested: See Recommendations.

Attachments:

1. Text of the proposed amendment.
2. Table summarizing subdivision procedures for 5 adjoining counties.

Submitted By:

Keith Megginson, Planning Director

Date

County Manager Review:

Charlie Horne, County Manager

Date

This abstract requires review by:

County Attorney

Date Reviewed

Finance Officer

Date Reviewed

Budget Officer

Date Reviewed

PART B

Re: Moratorium Ordinance

Introduction / Background / Previous Board Actions:

On July 17, 2006 the Board of Commissioners adopted the Chatham County Moratorium Ordinance. The ordinance was the result of changes to the NC General Statutes that were adopted during the 2005 legislative session. On December 4, 2006 the Board of Commissioners scheduled a public hearing for December 18 to amend the ordinance.

Issues for Further Discussion and Analysis:

In 2005 the General Assembly approved a series of revisions to the General Statutes that required several amendments to the Zoning Ordinance and Subdivision Regulations. Part of the legislative changes included language that set forth the procedures for establishing a moratorium. Prior to this legislation local governments assumed that they could adopt a moratorium, but there was no uniform process for their adoption. At the time that the Moratorium Ordinance was adopted the Planning Department staff considered three options to present to the Board of Commissioners: (1) make no amendments to currently adopted regulations, (2) incorporate the NCGS reference into the regulations that would most likely have a moratorium, or (3) draft a separate ordinance based on the statute.

After the 2005 statute changes became effective the NC Institute of Government issued guidance documents regarding each specific change and how it related to local regulations. The section on moratoria included the following information:

“Statute both enables and restricts the use of moratorium authority. Conforming amendments to Z[oning], S[ubdivision], U[nified] D[evelopment] and perhaps other ordinances recommended. L[ocal]G[overnment]’s will want to have moratorium authority in place in the ordinance since need for moratorium may come quickly. Moratorium restrictions may also apply to land development approvals (and ordinances) other than zoning.”

This implies that the statute is enabling legislation for local jurisdictions, which allows them the authority to incorporate the general statute into currently adopted regulations so that a moratorium could then be adopted.

Since the county does not have a unified development ordinance, the Planning Department staff thought that the adoption of a separate stand-alone Moratorium Ordinance, based on the general statute, would be a better solution for the county. There are potentially 7 ordinances or regulations that would have required amendments to incorporate moratorium authority. At the public hearing for the Moratorium Ordinance there were comments submitted with suggested revisions to the text of the ordinance. One of the suggestions was to add sketch design to the list of exemptions. This was requested due to the expense incurred by a developer in obtaining permits from various regulatory agencies between sketch design approval and preliminary plat submittal. *(The written comments that were submitted at the June 19, 2006 public hearing and the agenda notes that were prepared at that time can be viewed on the Planning Department website under the 2006 Rezoning and Subdivision Cases.)*

Re: Moratorium Ordinance

Issues for Further Discussion and Analysis – con't

Planning Department staff contacted the NC Institute of Government as to whether additional exemptions could be added to the list of exemptions to a moratorium and were advised that this was acceptable. In further discussing the county's requirements for sketch design submittal, IOG staff indicated that this was a legitimate request based on the county's requirements for sketch design, which are similar to other NC jurisdictions requirements for preliminary plat approval. The Subdivision Regulations require a detailed layout that is normally prepared by a licensed surveyor or engineer and a soils evaluation prepared by a certified/licensed soil scientist for sketch design submittal. Between sketch design approval and preliminary plat submittal the developer is required to obtain various regulatory permits such as a NCDOT Commercial Driveway Permit, US Army Corps of Engineers 404 Wetlands Permit, NC Division of Water Quality 401 Certification, Chatham County Erosion & Sediment Control Permit, NC Public Water Supply Section Authorization to Construct, and NC Division of Water Quality Wastewater Permit.

The effect of adopting the proposed revisions to the Moratorium Ordinance would be that any subdivision sketch design requests that are submitted after the adoption of the revised language may be prohibited from proceeding through the review process due to a moratorium. An applicant may appeal such a position based on the expenditure of funds required in preparing the sketch design submittal. It is the Planning staff understanding from legal opinions that the revisions to the Moratorium Ordinance would not apply to any subdivisions which have already applied for or received sketch design approval.

At their meeting on January 2, 2007 the Planning Board discussed the requirements for submitting sketch design, which include a survey and preliminary soils analysis, and their associated expenditures. The Board further discussed that the sketch design is not a voluntary informal review (as in some jurisdictions), but a formal approval by the Board of Commissioners for a subdivision to proceed through the subdivision process. This approval gives a developer an approval of the overall concept so that they can proceed with developing plans to obtain permits from local, state, and federal regulatory agencies. These permits are required to be submitted as part of the preliminary plat application packet and have associated expenditures. A moratorium imposed between sketch and preliminary may nullify the usefulness of that work. The Planning Department also gave a brief review of the subdivision process for Wake, Lee, Moore, Randolph, and Orange Counties, which is included as attachment #2 (The version on the Planning Department website has hyperlinks to the applicable sections of each jurisdictions subdivision regulations). Moore and Randolph Counties have a voluntary sketch design review with staff, Lee County requires a sketch design review with staff, and Wake County does not have a sketch design. Each of these jurisdictions has preliminary plat requirements that are similar to Chatham County's sketch design submittal. Orange County has a concept plan submittal that requires the submittal of a site analysis map, conventional development option, and flexible development option. The Planning Board voted 8-2 to recommend denial of the proposed text amendment.

Recommendation:

The Planning Board recommended denial of the proposed ordinance amendment for omitting sketch design subdivision applications and approvals from the list of exemptions from a moratorium. The Planning Department concurs with the Planning Board recommendation that the ordinance remain unchanged for the reasons specified.

