

PLANNING & ZONING REVIEW NOTES

VII. E.

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**SUBJECT:** Request by Chatham County for a text amendment to the **Chatham County Zoning Ordinance**, Section 10, Item 10.1, 10.2, 10.3 Residential Agricultural List of Permitted Uses specifically for public and private schools to reduce the double setback requirement to allow uniformity with the zoning district's minimum setback requirements.

**ATTACHMENTS:** *The following was distributed at the September 4, 2007 Planning Board meeting:*

1. Application

**INTRODUCTION & BACKGROUND:**

At the direction of the Chatham County Board of Commissioners, a public hearing was held on September 17, 2007 to receive public input on a possible change to the zoning ordinance regarding setback requirements for schools. Mr. Peter Rubinas was the only person who spoke on the request and he recommended denial of the text amendment. The minutes from this meeting can be obtained from the County Manager's Office.

The Zoning Ordinance allows public and private schools within a residential/agricultural zoning district. There are specific stipulations associated in allowing such use to be located within that district. There is a minimum of three acres required and the setbacks for all buildings, structures, and high intensity activity areas are to have double the setback requirements for the district in which it is located. The residential/agricultural district has a minimum front setback of 40 feet and the sides and rear setbacks are 25 feet. A school is required to have an 80 foot front setback and a 50 foot setback on sides and rear. The front setback does not include any NCDOT right-of-way that may also exist adjoining any said property. Therefore if the NCDOT right-of-way on any such street is said to be 60 feet (30 feet from the center of the roadway), then any structures, buildings, or high intensity activity areas would be required to measure at least 110 feet from that center line of the roadway.

The request was initiated at the Board of Commissioner's meeting on August 6, 2007 following a notice of violation for North Chatham Elementary School's modular classroom units.

**DISCUSSION & ANALYSIS:**

Section 17 of the Zoning Ordinance states "the purpose of establishing and maintaining sound, stable and desirable development within Chatham County this Ordinance shall not be amended except to correct an error in the Ordinance or, because of changed or changing conditions in a particular area or in the County generally, or to extend the boundary of an existing zoning district or to rezone an area to a different zoning district, or to change the regulation and restrictions of the Zoning Ordinance. These amendments shall be reasonably necessary to promote the public health, safety and general welfare and to achieve the purposes of the adopted Land Development Plan". This request is to change the regulation regarding school setback requirements.

**Re: Chatham County Zoning Ordinance**  
**DISCUSSION & ANALYSIS** – con't

In speaking of one particular issue recently brought to the attention of the Planning Department, Mr. Rubinas stated at the public hearing that “the Chatham Citizens for Effective Communities believe the regulation was originally written in the current way for the safety of the county’s children” and therefore should not be reduced.

Mr. Rubinas also questioned whether or not the school in violation, in this particular situation, could seek a variance to allow the reduction in the setback for mobile classroom units. The zoning ordinance has specific criteria that are required to be met in order for a variance request to be approved. It does not appear a variance could be approved in the case currently involving the North Chatham Elementary School based on the criteria established in Section 16.3 B.1. of the Chatham County Zoning Ordinance.

Generally all uses within a specified zoning district have the same requirements such as lot size and setbacks. It is the opinion of the Planning Department staff the requirements listed in the Zoning Ordinance, specifically for public and private schools, were made separate and apart for a specific reason. One reason may be to reduce the impact of schools on adjacent properties. Another reason could possibly be for the increased safety and well being of the occupants of those premises. As it relates to North Chatham Elementary School the adjacent property of about 20 acres across from the school modular classrooms is about 110 feet wide in the location of concern. Therefore it is unlikely building will occur on the adjacent property in said location. The school has had a guardrail installed on their property to address the safety concerns.

One way to resolve this issue may be to amend the text at this time and have the zoning subcommittee specifically address requirements for public and private schools as they work on revisions to the Zoning Ordinance. It is anticipated that the modular classrooms will be removed as classroom space is provided by new schools.

**RECOMMENDATION:**

The Planning Department staff recommends the request for text amendment to the Zoning Ordinance as described be approved with a recommendation that the zoning subcommittee address the issue again as they work on the Zoning Ordinance. The Planning Board has up to three meetings to make a recommendation to the Board of Commissioners.