



**CHATHAM COUNTY
BOARD OF COMMISSIONERS
AGENDA ABSTRACT**

ITEM NUMBER:
MEETING DATE:
11-19-07

PART A

Subject:

Request by the Chatham County Board of Commissioners to zone property located within the following areas and containing approximately 32.2 square miles to Residential-Agricultural 40 (RA-40):

- 1500 feet on either side of the unzoned portions of US 421,
- 1500 feet on either side of the unzoned portion of US 64,
- 1500 feet on either side of the unzoned portion of US 15-501/Highway 87 south of the Town of Pittsboro,
- 1500 feet on either side of the unzoned portion of US 1,
- 1500 feet on either side of the unzoned portion of Moncure-Pittsboro Road, and
- 1500 feet west of Highway 87, north of the Town of Pittsboro zoning jurisdiction to the Alamance County line, heading east to the existing zoned areas.

Action Requested:

See Recommendations.

Attachments:

1. Map of areas considered for zoning.
2. Detail map of areas considered for zoning.
3. Watershed map with overlay of areas considered for zoning.
4. Map of business uses and buildings that would become nonconforming in areas considered for zoning.
5. Spreadsheet with business uses and buildings that would become nonconforming in areas considered for zoning.
6. Map of Southern Wood Piedmont Company property.
7. Letter dated 11-1-07 from Blaine Lucas representing Southern Wood Piedmont.
8. Letter dated 11-14-07 from Blaine Lucas representing Southern Wood Piedmont Company.
9. Corridor map with variable width buffer between 1000' and 1500' and nonconformities.

Attachments 2, 3, 4, 7, 8 & 9 are available on the Planning Department website.

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: Corridor Zoning

Introduction / Background / Previous Board Actions:

A public hearing was held at the request of the Chatham County Board of Commissioners on September 25 to zone various areas of the County that are currently unzoned to RA-40. This was a special meeting of the Board of Commissioners for this item. The area under consideration for zoning includes approximately 2,884 parcels and covers approximately 32.2 square miles.

Issues for Further Discussion and Analysis:

The agenda abstract for this item from the August 6 Board of Commissioners meeting includes background information on the activities leading to the public hearing. It also references the recommendations made by the Major Corridor Ordinance Committee and Planning Board requesting that the commissioners zone various parts of the County. Based on those recommendations and their discussion the Commissioners voted 4-0 to initiate the process to rezone the areas listed above. As part of the motion, the Board expanded the area to be zoned to include 1500' on either side of the unzoned portions of Pittsboro-Moncure Road.

Approximately 22 people signed up to speak during the public hearing, although all of them did not speak. Concerns raised by those in opposition to the rezoning included the following: the cost of submitting rezoning and conditional use permit applications would deter business; land that was purchased for future uses would be restricted; existing non-residential buildings with no tenants may not be grandfathered; several secondary roads were included as major corridors while others were not; and it could take away business opportunities for the average person. Comments from speakers in favor of the rezoning included: it would protect the environment, property values, property rights, and County's rural character; control strip commercial development; and is a tool to implement the land use plan.

The areas considered for rezoning have different characteristics and are challenged with different issues. The Highway 87 and Old Graham Rd. area have experienced significant residential development that is supported by private water and sanitary sewer facilities and no supporting non-residential services. Pittsboro-Moncure Road has had little development and is anchored to the north by the Town of Pittsboro and the south by US 1, which is a 4-lane controlled access highway that provides easy access to the Cary, Apex, Holly Springs, and Raleigh to the east and Sanford to the west. There has also been a large assemblage of land by a single investment group to the east of Pittsboro Moncure Road. US 15-501/Highway 87 south of Pittsboro has experienced little development, although a mining operation has opened off of this road. US 64 has been upgraded to a 4-lane highway and the county is currently installing a water line along a portion of the road. US 421 south of Siler City is in the final stages of an upgrade to a 4-lane road. These road improvements and utility extensions have created the potential for new residential and non-residential development in the County, with some already occurring in these currently unzoned areas.

The Land Conservation and Development Plan also provides guidance about the future of these areas. The eight policies listed on pages 1 and 2 of the plan discuss preserving the existing rural character of the County while guiding new uses to appropriate locations. The plan recommends targeting non-residential uses to economic development, neighborhood activity, and cross-roads commercial centers. It seeks to discourage strip commercial development and non-residential development in sensitive resource areas.

Issues for Further Discussion and Analysis – con't

The plan also recommends limiting public water and sewer service to designated high growth areas and prohibiting it in areas of low-density growth. One of the drawbacks to the plan is that it lacks a land use map to identify where new uses should be guided.

Although these areas are currently unzoned, there are other countywide land use ordinances and regulations in place that impact development. Of those regulations the Watershed Protection Ordinance and Subdivision Regulations have the most significant impact on development. A majority of the areas considered to be zoned are designated as WS-IV Protected Area or Local watershed districts. The remainder of the areas is designated River Corridor, River Corridor Special Area, WS-IV Critical Area, or WS-III Balance of Watershed district (Attachment 3). The WS-IV PA, Local, RCSA, WS-IV CA and WS-III BW limit residential densities to one dwelling unit per acre and the River Corridor is one dwelling unit per five acres. Further, the WS-IV CA and River Corridor limit non-residential uses to those listed in the Watershed Ordinance, regardless of the zoning classification. The Subdivision Regulations require a minimum lot size of one dwelling unit per acre for residential lots on a public water supply and 1.5 acres on a well. Based on these currently adopted regulations, the RA-40 zoning would have no effect on densities for residential uses of property. The primary effect of the RA-40 zoning would be the regulation of non-residential uses.

The regulation of existing non-residential uses and buildings does raise several issues as to how these non-conforming situations should be handled (Attachments 4 and 5 are a map and spreadsheet of nonconforming businesses). Section 9 of the Zoning Ordinance does allow for non-conforming uses to be continued and expanded to include more area or buildings on a property. However, Section 9.6(2) specifically prohibits the conversion of a non-conforming use to another non-conforming use. One of the questions asked at the public hearing was what uses would be allowed in buildings that were constructed for non-residential use, which are currently vacant. Since there is no specific use to consider as non-conforming, the Zoning Ordinance would imply that any future uses would have to be among those permitted in the RA-40 district, which might not be practical for the building. The property owner would be placed in a position of applying for a rezoning for a business use that the site was originally designed and constructed to accommodate. A request for a variance would not be an option since the General Statutes specifically prohibits use variances.

Another situation that has occurred along all of the corridors is that the 1500' distance from the right-of-way will have the effect of zoning a portion of a property while the balance remains unzoned.

This does not present a problem for residential uses of land on the zoned and unzoned portions of the property. It does pose a problem for properties that have previously been used for or are proposed for commercial or industrial uses, particularly if the entire road frontage for a property is zoned RA-40. The Zoning Ordinance does not address whether access roads for a non-residential use can cross residentially zoned property. There are currently areas in the zoned portion of the County that are zoned for non-residential uses with access crossing residentially zoned property. However, since there is no specific language in the ordinance that addresses this issue, clarification is needed. The Zoning Ordinance can be amended to specifically address whether access roads for non-residential uses is allowed in residential zoning districts.

Issues for Further Discussion and Analysis – con't

A situation where the proposed zoning boundary includes the road frontage of a former industrial site is property owned by Southern Wood Piedmont Company located off of R Jordan Road (see Attachment 6 for map). Tax records indicate that the property contains 44.94 acres and the area that falls within the 1500' zoning corridor is approximately 5,500 square feet. The property was previously used for a creosote treating facility and is now under an remediation plan due to environmental contamination. Due to the contamination, the use of the property for residential purposes may be limited. The Planning Department staff has reviewed this issue and thinks that this is a unique circumstance within the corridor zoning area. To avoid limiting the future use of the balance of the property, which would remain unzoned and under a remediation plan, it may be advisable to remove this parcel from the areas to be zoned. See attachment numbers seven and eight, letters from Blaine Lucas, attorney, representing Southern Wood Piedmont Company for their information and requests on these various parcels.

The previous agenda notes have indicated that the Major Corridor Ordinance Committee and Planning Board recommended these areas for initial zoning as a stop-gap measure. The Planning Board recommended the RA-40 zoning as a holding zone that should be re-visited at the completion of the current moratorium. The Major Corridor Ordinance Committee also thought the RA-40 zoning would provide them time to complete their work on designating economic node locations and drafting corridor overlay standards. Although the MCOC has not completed their work, it is apparent that there will be areas where vacant non-residential buildings will not be located within economic nodes. This raises several questions such as whether the Board of Commissioners will rezone properties within the economic nodes to be consistent with the recommendations of the MCOC or will the property owners have to initiate the requests. Second, what happens to the existing vacant non-residential buildings that are located outside of the economic nodes? The Planning Department has compiled a list of 74 businesses or vacant buildings previously used for business use that will become non-conforming if these areas are zoned.

During previous Planning Board discussions on this topic there were questions about what type of residential zoning was appropriate. The RA-40 designation was recommended primarily because it is the predominant residential zoning classification in the existing zoned areas. The RA-5 zoning is primarily located along the major rivers and significant natural heritage areas and the RA-90 zoning is located in the University Lake watershed drainage area. The Land Conservation and Development Plan discusses retaining "ruralness" through large lot zoning, open space preservation, village clusters, and other design approaches.

It also encourages supporting farming and forestry in predominately agricultural and silvicultural areas; encourages rurally compatible residential development in rural areas; protecting important natural areas and resource lands; and preserving scenic and historic landscapes. The Board of Commissioners have also expressed an interest in zoning the joint Chatham/Cary planning area as RA-5, which is currently zoned RA-40, to protect water quality at Jordan Lake. A similar down zoning may be advisable in the future in the area under consideration for zoning based on environmental considerations.

Issues for Further Discussion and Analysis – con't

Since the 1960's when zoning was first introduced in Baldwin and Williams Townships, the County has from time-to-time expanded zoning to cover more areas. The area currently under consideration for zoning has either experienced significant growth or has the potential for growth due in part to major transportation projects and utility extensions. In acknowledgement of these changing conditions, the Planning Board and Major Corridor Ordinance Committee recommended that these areas be considered for zoning. However, both advisory boards noted that a blanket zoning of this type would require further action and reconsideration at the completion of the current moratorium. The recommendations of the land use plan and issues associated with non-conforming uses and structures also needs further study with some of the areas that are currently under consideration for RA-40 zoning being rezoned.

The Planning Board discussed this item at their November 5 meeting and a majority of their discussion focused on the existing businesses within the corridor zoning. Several board members expressed concern that the existing business uses would become non-conforming and there was nothing to bind them from revisiting the issue at some point in the future, even though that was the intent of the earlier recommendations. Another issue discussed by the board was access issues for split zoned properties. There was concern expressed that if the portion of a lot fronting on a road was zoned RA-40 and the balance was unzoned, that this could limit the use of the unzoned portion to the RA-40 uses. The Board also discussed issues related to Southern Wood Piedmont's property, some of which is included in the corridor zoning. Gregory Kuntz with Schnabel Engineering was in attendance representing Southern Wood Piedmont and informed the board that the property was formerly used for creosote wood treatment and that they were currently under a remediation plan that would take up to 30 years to complete. He also noted that part of the remediation required the owners to record restrictions on the future use of the property to prohibit residential uses. It was further indicated that parcel number 71765, which is entirely within the corridor zoning boundary, was also included as part of the remediation plan for parcel number 9869.

The Planning Board entertained a motion to recommend approval of staff's recommendation, which failed by a vote of 2-5 with 1 abstention (Note: A board member arrived between the first and second motion). A second motion was made that a more detailed review of the corridor zoning occur and that no new developments be allowed for 6 months in these areas, which failed by a vote of 2-6 with 1 abstention. A third motion was made to reduce the corridor zoning area to 500 feet from either side of the right-of-way; that existing businesses be zoned to be consistent with the current use; and access be allowed to unzoned portions of property. This motion was withdrawn. A fourth motion was made to reduce the corridor zoning area to 500 feet or the extent of the property beyond 500 feet; that existing businesses be zoned to a district compatible with the current use; and that the remaining areas be zoned RA-40. This motion resulted in a tie vote of 4-4 with 1 abstention. A sixth motion was made to reconsider the previous motion, which resulted in a tie vote of 4-4 with 1 abstention.

During the agenda review meeting on November 12th additional mapping information was requested. On line is a map showing a 1,000 foot corridor and 1,500 foot corridor line. The map shows parcels that are within 1,000 feet of the highway in whole or in part and leaves out parcels (shown in white) that are totally outside the 1,000 foot line. This would reduce the zoned parcels from 2,884 to 2,610. Non-residential parcels are crosshatched and parcels that extend beyond the 1,500 foot corridor line which will be zoned and unzoned are shown in yellow.

Re: Corridor Zoning

Recommendation: The Planning Board did not have a majority vote on any of their motions and did not make a recommendation on the corridor zoning. The Planning Department recommends approval of the request to zone these areas to RA-40 as a temporary measure and that the entire area is re-evaluated at the completion of the moratorium, with the exception that parcel #9869 remain unzoned in its entirety.

