

Environmental Impact Assessments  
Public Hearing on Amendment to Zoning Ordinance Section 11.3  
Patrick Bradshaw Comments

April 18, 2011

Mr. Chairman and Commissioners:

My name is Patrick Bradshaw. I practice law at 128 Hillsboro Street in Pittsboro. I support the proposed amendment to eliminate the requirement for environmental impact assessments for permitted non-residential uses on general use zoned properties because they are expensive and burdensome for property owners and provide no protection for the environment or any other benefit to the county.

When a property owner with a permitted use in a general use district submits an environmental assessment, the county staff reviews the assessment for completeness—not for its substance, but just to make sure it contains the information the ordinance requires. If it does, it then goes on a shelf and nothing else is done with it. The reason for this is that the county has no regulatory authority to deny or even place conditions on a use that is permitted in the zoning district based on information in the environmental assessment. It is not a proper use of government power to require property owners to produce expensive reports that the county has no authority to act upon.

The nature of a permitted use in a general use zoning district is that the zoning ordinance already authorizes the use. Yet the current environmental impact assessment provisions require the property owner to explain—or more precisely to pay a professional to explain—why his project is necessary, to describe what alternatives to his project might be and how his proposed land use fits in to the surrounding area. All of this for a use that the zoning ordinance already specifically allows.

And these assessments are expensive. A client of mine who owns property in the B-1 General Business district obtained a quote for the price of a county environmental impact assessment from a well-known environmental consulting firm in February. The consultant had already done a lot of work on the property, but the projected cost of the EIA was still \$9,000.00. I asked the consultant what the EIA would have cost if they had not already done so much work on the

property, and he said it would have been \$15,000.00 to \$20,000.00. That's \$15-20,000.00 for a report that gets placed on a shelf or thrown in a drawer.

Doing away with these unnecessary assessments will not weaken or eliminate one single environmental protection. Property owners will still be required to comply with the county's flood prevention ordinance, its soil erosion and sedimentation control ordinance, and the stormwater and watershed regulations, including all applicable riparian buffers.

This isn't about sustainable agriculture or rural character. This is about property owners being able to use their land for things that the zoning ordinance already says they can use it for. If folks want to keep these \$15-20,000.00 reports because they are barriers to entry, because they discourage business from locating here by making it more expensive for no apparent reason, then we ought to be honest about that and have that debate. But these reports do not protect the environment.

The county has no legal authority to do anything with them, and for that reason they should be eliminated.

Thank you.