

## **..TITLE**

Vote on a request to approve Chatham County Board of Commissioners to apply R-1 and R-5 Residential zoning to approximately 388 square miles of the county that are currently unzoned.

## **..ABSTRACT**

### **Action Requested:**

A request by the Chatham County Board of Commissioners to apply R-1 and R-5, Residential zoning, to approximately 388 square miles of the county that are currently unzoned.

### **Introduction & Background:**

During the March 21, 2016 Commissioners meeting a public hearing was scheduled to extend R-1 and R-5 Residential zoning to areas of the county that are currently unzoned. This item was previously discussed in November and December 2015 by the Commissioners when it was determined that zoning should be extended countywide. A public hearing was held on June 6, 2016 and the Planning Board reviewed the request during their July 12, 2016 meeting.

### **Discussion & Analysis:**

The areas under consideration for rezoning are included in the attached maps, covers approximately 388 square miles, and includes over 11,600 parcels. Approximately 1,000 public hearing signs have been placed in the affected area and notification letters have been mailed to the property owners and adjoining. A website has also been created with information about the zoning process and also includes a list of frequently asked questions, which can be viewed at the following link – [www.chathamnc.org/CountyZoning](http://www.chathamnc.org/CountyZoning).

The Residential R-1 and R-5 zoning classifications represent the residential density allowed within those districts. R-1 allows one dwelling unit per 40,000 square feet (63,560 square feet without public utilities) and R-5 allows one dwelling unit per 5 acres on average with no lot being less than three acres in size. These residential densities also reflect the watershed district designations that were implemented in 1994 and as shown on the adopted Watershed Protection Map (link to map here - <http://www.chathamnc.org/Modules/ShowDocument.aspx?documentid=15030> ). For example, the R-5 zoning district overlays the River Corridor watershed district. The exceptions to this rule are areas along the Deep River where the River Corridor Special Area and Critical Area watershed districts have been adopted. Residential densities in those two watershed districts allow one dwelling unit per acre, whereas R-5 zoning is proposed. The Board of Commissioners discussed this area during their December 2015 meeting and decided that R-5 zoning was appropriate due to the proximity to the Deep River and for consistency with the application of this zoning district to properties

adjoining the Rocky River. Additionally, it would match the zoning in place along the currently zoned areas of the Deep River.

There are existing businesses within the implementation area and those uses will be considered non-conforming or “grandfathered” and subject to the non-conforming provisions of the Zoning Ordinance (see Section 9). Those provisions allow for the continued operation of the businesses and allow for expansions in certain circumstances. If a use is discontinued for greater than 365 days the “grandfathering” provisions will no longer apply. The application of zoning to bona fide farm operations will have no effect on those uses. The Zoning Ordinance includes provisions that exempt farm activities from zoning regulations and those standards will apply in the proposed zoning area.

The notification letter mailed to all property owners included a business listing form and requested that business owners return the form so that those activities could be included in the list of non-conforming uses. Staff has received in excess of 1,000 responses and over 300 appear to qualify under the non-conforming provisions. The bulk of the remaining responses are either residential uses or bona fide farm uses that did not need require a listing form. Bona fide farms uses are exempt from zoning regulations and residential uses are not businesses.

A public hearing was held on June 6, 2016 to receive comments on the proposed zoning and multiple speakers provided comments. A video of the public hearing is available at the following website - [http://chathamnc.granicus.com/MediaPlayer.php?view\\_id=2&clip\\_id=331](http://chathamnc.granicus.com/MediaPlayer.php?view_id=2&clip_id=331) and written comments are provided as an attachment on the planning website. Comments ranged from those in support of the extension of zoning to those in opposition. Those in opposition commented that the extension of zoning should wait until the comprehensive plan is completed in order to inform proposed zoning; that it should be subject to a referendum; can impact property sales; that the proposed zoning will encourage sprawl; will ultimately result in fewer farms; and is an infringement on private property rights. Those in support commented that zoning provides additional protections for property; provides a process to consider uses that could impact the surrounding areas; protects agricultural and rural areas of the county from subdivision; that prior industrial uses have abused the land and disregarded the community; and is proactive instead of reactive. Additional comments included that industrial uses should be zoned according to the use occurring on the property.

Staff has received in excess of 500 phone calls and emails in response to the mailed notices and public hearing signs. A majority of the calls have been requests for clarification and whether business listing forms need to be submitted and all calls have been returned. Staff also received several inquiries regarding the application of zoning

to Corps of Engineers property. The proposed zoning for the Corps of Engineers property is R1, which is consistent with the residential densities allowed in the WS-IV Critical Area watershed district, in which Jordan Lake is located. This designation will not result in development on Corps property or create additional density that can be transferred to other property in the county. Staff routed the information regarding the proposed zoning to the Corps of Engineers and received a letter from Carol Banaitis, Operations Project Manager with the Corps, dated July 12, 2016 and posted on the planning website. The letter includes the following: "The intent of this letter is to communicate that the County's zoning of this federal property will not change how the lands and waters are managed by the USACE. Local zoning ordinances are typically not applicable on Federal property as they may conflict or interfere with the Federal purpose for which the property was acquired and operated. The waters of Jordan Lake and the surrounding Federal lands are managed for congressionally authorized purposes including public drinking water supply, fish and wildlife conservation, natural resource based public recreation, water quality, and flood storage. The residential zoning of R-1 over land around Jordan Lake is not compatible with the allocations and designations in the Jordan Lake Master Plan." There were several comments provided during the public hearing that additional protections for Jordan Lake should be established.

Comments were also received from a representative for General Shale requesting that two existing mining properties be zoned as Heavy Industrial. A letter was also received from the 3M Plant Manager, Blake Arnett, requesting their property also be zoned Heavy Industrial. Planning staff contacted the county attorney and determined that changing the zoning for these properties could not be done as part of the current zoning process. Planning staff received business listing forms for the properties and they will be included in the list considered for non-conforming use status.

The Planning Board met on July 12, 2016 to discuss this item and approved four recommendations to forward to the Board of Commissioners. During the public input portion of the Planning Board agenda twenty people spoke and all were related to the zoning initiative. The comments can be summarized as follows – zoning is unfair to existing businesses; zoning regulations are confusing; R-5 or R-10 zoning needed for agricultural areas; legislators are supporting certain industries and the county needs protections in place; take time to implement zoning and don't rush to adopt; and R1 zoning will contribute to increased development.

The Planning Board discussion included the following - the zoning initiative should wait until the comprehensive plan is complete; that this has been discussed for 1 ½ years and most people don't want the county to change but disagree on how to achieve it; Corps land doesn't need to be involved; the county has one of the highest population growths in the state; the Planning Board made a recommendation to zone west of

highway 87 and don't need to apply to 388 square miles; R-1 and R-5 zoning doesn't make sense; conditional zoning requires a community meeting and this initiative didn't have any; would prefer more information before implementing zoning; zoning doesn't push people off their land, create development, or stop farms; zoning is not a threat to farms, but your neighbor selling their property is that threat; doesn't fully protect the county by preserving rural character; Chatham Park is coming and zoning is a stop gap measure; and the county has been working on this for 18 months that included six subcommittee meetings that were open to the public.

Minority and majority reports have also been provided by the Planning Board and are posted with other materials related to this item on the Planning Department website at the following link -

[http://www.chathamnc.org/RezoningSubdivisionCases/2016/2016\\_items.htm#6-2-16\\_Zoning\\_Unzoned\\_Areas\\_PH](http://www.chathamnc.org/RezoningSubdivisionCases/2016/2016_items.htm#6-2-16_Zoning_Unzoned_Areas_PH) .

The Planning Board then took action on the following four motions.

1. Recommend adoption of the zoning from the June 6, 2016 public hearing. The motion was approved by a vote of 7-4.
2. Look at existing businesses and consider for the appropriate zoning, allow for rezoning with no fee, and follow the same process from 2009. The motion was approved by a vote of 11-0 (1 vote was an abstention).
3. Recommend zoning the Corps of Engineers property R-5 instead of R-1. The motion was approved by a vote of 11-0.
4. Recommend adoption of the following consistency statement "The Land Conservation and Development Plan includes the following recommendations: Summary of Major Recommendations #2 "Extend land use regulations to the entire county in order to guide development to appropriate locations, provide more certainty for landowners and establish a basis for farmland preservation strategies" and #3 "Retain the current 5-acre average lot size in the areas designated in the county's watershed protection ordinance and shown as resource protection areas on the community plan map." The motion was approved by a vote of 8-2 (1 member stepped out of the meeting prior to the vote).

**Recommendation:**

The Planning Board recommends the following motions for consideration in relation to the initiative to extend zoning to areas of the county that are currently unzoned:

1. Recommend adoption of the zoning from the June 6, 2016 public hearing. The motion was approved by a vote of 7-4.
2. Look at existing businesses and consider for the appropriate zoning, allow for rezoning with no fee, and follow the same process from 2009. The motion was approved by a vote of 11-0 (1 vote was an abstention).
3. Recommend zoning the Corps of Engineers property R-5 instead of R-1. The motion was approved by a vote of 11-0.
4. Recommend adoption of the following consistency statement "The Land Conservation and Development Plan includes the following recommendations: Summary of Major Recommendations #2 "Extend land use regulations to the entire county in order to guide development to appropriate locations, provide more certainty for landowners and establish a basis for farmland preservation strategies" and #3 "Retain the current 5-acre average lot size in the areas designated in the county's watershed protection ordinance and shown as resource protection areas on the community plan map." The motion was approved by a vote of 8-2 (1 member stepped out of the meeting prior to the vote).