

PLANNING & ZONING REVIEW NOTES

VIII. A.

Note: This issue was deferred during last month's Planning Board meeting. Below are the notes from that meeting.

SUBJECT: A request by Chatham County to rezone 49 parcels from Heavy Industrial to Residential/Agricultural.

ATTACHMENTS: *The following can be viewed on the Planning Department's webpage at www.co.chatham.nc.us under Planning, Rezoning & Subdivision Cases, 2006:*

1. Map of area to be rezoned.
2. Written comments by Loyce Hurley from the public hearing.
3. Map provided by Allison Weakley.
4. Emails from landowners Gordon Parker and Ed Holmes.
5. Card from landowner Paul Wetmore.

INTRODUCTION & BACKGROUND:

A public hearing was held on this request March 19, 2007. Five (5) people spoke concerning the rezoning. Written comments can be found on the Planning Department's webpage for those who submitted them. Minutes from the public hearing can be viewed on line or obtained from the County Manager's office. The Planning staff is recommending a change in zoning on a select number of parcels from Heavy Industrial to Residential/Agricultural. Such a recommendation is partially based on adopted land use plans and policies as well as changing conditions as noted in the Chatham County Zoning Ordinance under Section 17.

- 1) In 1990, the Chatham County Board of Commissioners zoned this area heavy industrial. This was due in big part to the industry existing at the time and the location near US 1, the railroad, and the river.
 - i) Notification of a rezoning was not required by general statute to individual landowners at that time.
 - ii) No additional industry or commercial uses have located in this area.
Currently existing non-residential uses in the area are:
 - Performance Fibers
 - ST Wooten
 - Assured Construction (formerly Lee Paving)
 - Fat Jr's Restaurant (See attached breakdown for area covered)
 - Funeral Home
 - Shop/Office/Loading Dock
- 2) In 2004 an inquiry was made by a landowner to the Planning Department to see if a campground could be located in this area. This was not a permitted use under the heavy industrial zoning classification.
- 3) In July 2005, the Federal Emergency Management Agency (FEMA) developed new flood maps for Chatham County.

- i) Per the latest data available from FEMA, the 100-year floodplain or Special Flood Hazard Area covers about 120 acres of the property under consideration for rezoning.
- 4) In January 2006 an inquiry was made by a realtor for a perspective buyer who wanted to build a church facility along with a single family dwelling for a parsonage.
 - i) It was determined a “church” could not be prohibited in any zoning district by way of federal law. (Attached - US Department of Justice Civil Rights Division Housing and Civil Enforcement Section; Religious Land Use and Institutionalized Persons Act) However, the parsonage would be considered a residential use and therefore not listed as a permitted use in the heavy industrial zoning district.
 - ii) Residential uses located in this area today are those that were there in 1990.
- 5) In March 2006 a letter to all property owners was sent from the Planning Department to gain interest in having properties not currently utilizing a non-residential use rezoned to Residential/Agricultural (RA-40) district.
- 6) On March 14, 2006, Planning Department staff met with the Economic Development Board to advise them on the proposal to rezone the respective parcels to residential/agricultural (RA-40).
 - i) Former Director, Tony Tucker, in a letter dated May 10, 2006 expressed the board’s recommendation was to leave the zoning in this area as Heavy Industrial.

DISCUSSION & ANALYSIS:

The Chatham County Land Conservation and Development Plan, referred to as “the plan”, is a general policy plan. A specific plan map was not adopted but a draft map was prepared. The subjective nature of a general policy plan may be seen by review of the chart of uses on page 6 of the Plan. As stated in the chart of uses, the preferred area for industrial is in the “Economic Development Centers” and “Towns” including their extra-territorial jurisdictions). A portion of the area proposed for rezoning is located in or around this area as stated on Page 34 of the Plan which states, “the Moncure-Haywood area may take advantage of industrial potential together with extensive transportation and water/sewer infrastructure”. A four-lane controlled access US 1 does provide on/off ramps to Pea Ridge Rd. and county water is available but sewer has not been available and isn’t due to be available any time in the future.

Three areas where industrial is not preferred as shown on the chart on Page 6 of the Plan are the Agricultural & Rural Development Areas, Natural Conservation Areas, and Resource Protection Areas. There are approximately 300 acres in this area currently used for farming purposes with the bulk of the proposed rezoning area consisting of residential dwellings. The Federal Emergency Management Agency (FEMA) conducted new surveys on flood prone areas in Chatham County and have approved the data updates we use today. The properties between Pea Ridge Road and the Haw River have considerable floodable noted.

DISCUSSION & ANALYSIS – con't

The Chatham County Zoning Ordinance lists zoning restrictions on lot sizes. Areas outside of the floodable areas must meet certain lot size and setback restrictions. The lot in an industrial area must not be smaller than 80,000 square feet, must have a lot width of at least 300 feet, and be able to meet the 100 feet setbacks from all property lines. The minimum yard setbacks can be reduced if the adjacent property has the same zoning district classification and the adjacent property owner provides an affidavit allowing the reduction. This does not apply along state maintained roads. When looking at the majority of the parcels proposed for rezoning, they are deep/long but narrow and do not meet the 300 foot width requirement.

The watershed designation on the opposite site of the Haw River is the River Corridor (RC). The designation between Pea Ridge Road and the Haw River and a portion on the eastern side of Pea Ridge Road is the River Corridor Special Area (RCSA). The RC designation lists permitted uses that are allowed per “Attachment A” of the watershed ordinance. There are no heavy industrial uses as defined in the IND-H lists of permitted uses allowed in this RC area. Non-residential uses are limited to 12% impervious surface and the minimum lot size is 5 acres. The RCSA allows non-residential uses up to 50% impervious surface when approved as a special non-residential intensity allocation otherwise the maximum is 36% without a curb and gutter system. It allows most non-residential uses with the exception of the five (5) listed in the watershed ordinance under Section 302.G.3. Therefore, the only way to limit the more intrusive uses would be through the zoning classification.

In reviewing the flood maps, there is more floodable area noted on the eastern side of the Haw River where heavy industrial is currently allowed. It is not allowed on the opposite side of the river. Beginning on page 38 of the Plan, ground and surface water resources are discussed. At the time the Plan was written, it was noted Chatham County’s water resources were already showing signs of stress. You are encouraged to read this section of the Plan.

The Chatham County Zoning Ordinance, Section 17, expressly lists reasons for rezoning of a parcel or areas of lands due to changing conditions. There have been requests made by property owners or interested property owners wishing to construct new residences, to subdivide their land for their children to construct new residences, and a request for a church parsonage. All of these uses are not allowed under the current zoning. As stated previously, there has been no new industry to locate in this area since the zoning was placed in 1990.

The NC Natural Heritage Program was checked. No additional protections needed at this time.

RECOMMENDATION:

The Planning Department staff recommends approval of the rezoning requests. The Planning Board has three (3) meetings in which to make a recommendation to the Board of Commissioners.