

## **..TITLE**

A legislative public hearing request to consider amendments to the Zoning Ordinance to require a conditional use permit for assembly occupancies in residential zoning districts and revise the list of uses that are eligible for a height exception as recommended by the Planning Board.

## **..ABSTRACT**

### **Action Requested:**

A legislative public hearing request to consider amendments to the Zoning Ordinance to require a conditional use permit for assembly occupancies in residential zoning districts and revise the list of uses that are eligible for a height exception as recommended by the Planning Board.

### **Introduction & Background:**

A legislative public hearing was held on November 19, 2018 to consider a citizen initiated text amendment to the Zoning Ordinance. The proposed amendment was to the table of permitted uses, specifically for churches and places of worship to require a conditional use permit in the three residential zoning districts instead of allowing them as a permitted use.

In January 2019, the Planning Board, by a vote of 7-0 in favor of denial, recommended adoption of a resolution approving the following consistency statement:

**The text amendment to require churches and other places of worship to obtain a conditional use permit singles out churches and other places of worship and does not require the same standard for other assembly uses and would violate the Religious Land use and Institutionalized Persons Act. The request should therefore be denied due to inconsistency with the adopted Comprehensive Plan.**

An additional motion was proposed by the Planning Board to request that the Board of Commissioners direct the Planning Department to develop performance standards for assembly uses in residential zoning districts and evaluate requiring a conditional use permit. This motion was approved by a vote of 7-0. In February 2019, the Board of Commissioners denied the text amendment application and directed staff to work with the Planning Board to evaluate options for establishing regulations for assembly occupancies in residential districts.

### **Discussion & Analysis:**

Research was conducted by planning staff to find comparable jurisdictions across the nation and evaluate their standards for places of assembly. Jurisdictions were chosen based on being similar in rural character, size (amount of land), and population. These jurisdictions were Wright County, MN; Napa County, CA; Benton County, OR;

Pottawattamie County, IA; and Elmore County, ID. Also included were surrounding jurisdictions of Chatham County: Wake County, NC; Orange County, NC; Durham County, NC; and Cary, NC.

At a regular scheduled Planning Board meeting held on April 2, 2019, members discussed different standards for assembly occupancies, which included general performance standards, conditional use permit requirement, a combination of both, and making no change. Suggestions on when a conditional use permit process will be required were as follows: project not located on a public road; waive/reduce application fees; traffic studies; threshold to trigger the conditional use permit process; and to keep daycare centers in the home for 15 or less children permitted by right. Several Planning Board members expressed concern that it would take considerable time to develop a list of performance standards and that work on the unified development ordinance will be underway soon.

It was mentioned more research would be needed, but that a conditional use permit process for places of assembly in residential areas can be used in the interim. The unified development ordinance will be able to clearly outline performance standards. Once the unified development ordinance is adopted, some or all places of assembly may be able to move away from the conditional use permit process. A motion passed, by a vote of 9-2, in favor of implementing a conditional use permit process for places of assembly in residential areas, waive the fee for those uses in residential areas, and evaluate performance standards as part of the unified development ordinance (see attachment).

The Planning Board also discussed the provisions of Section 8.8, Height Limitation Exceptions, and recommended by a vote of 7-3 with 1 abstention to remove the term “monuments” from the list. After additional review, planning staff is also recommending to include removing the term “observation towers”, if this amendment moves to a public hearing, for consistency (see attachment).

The Board of Commissioners discussed the Planning Board recommendation during their May 20, 2019 meeting and voted unanimously to schedule a public hearing on June 17, 2019 to consider the following Zoning Ordinance text amendments:

- Amend Section 10.13, Table of Permitted Uses, of the Zoning Ordinance to require a conditional use permit for assembly occupancies in residential districts.
- Amend Section 8.8, Height Limitation Exceptions, of the Zoning Ordinance to revise the list of uses that are eligible for a height exception.

At the time the Commissioners take final action on the text amendments discussion will also include consideration of the following Planning Board recommendation - Consider

waiving the conditional use permit application fee for assembly occupancies in residential districts until the unified development ordinance is adopted.

**How does this relate to the Comprehensive Plan:**

Goal: Preserve the rural character and lifestyle of Chatham County, Land Use Policy 12:  
Work toward an open (clear/concise) and cooperative approach to land use planning and regulation.

**Recommendation:**

Hold the hearing and refer the item to the Planning Board for a recommendation.