

**MINUTES**  
**CHATHAM COUNTY BOARD OF COMMISSIONERS**  
**SPECIAL MEETING**  
**NOVEMBER 20, 2008**

---

The Board of Commissioners (“the Board”) of the County of Chatham, North Carolina, met in the Central Carolina Community College, Multipurpose Room, 764 West Street, located in Pittsboro, North Carolina, at 6:30 PM on November 20, 2008.

Present: Chairman George Lucier; Vice Chair, Mike Cross; Commissioners Patrick Barnes, Carl Thompson, and Tom Vanderbeck; County Attorney, Jep Rose; and Clerk to the Board, Sandra B. Sublett

*Business Corridor*

The Chairman called the meeting to order at 6:31 PM.

Chairman Lucier stated that many of those present tonight had attended the meeting several months ago where the Board discussed which zoning classification would be most appropriate along the business corridors; that he trusted that in the meantime the property owners had received tax information to help guide their decision about what sort of zoning situation they might prefer; that the Planning Department had made recommendations that the property owners might want to react to either positively or negatively; that ultimately they would have to have a public hearing to rezone the properties; and, that as had been said at the last meeting there would be no fees associated with the rezoning because this was a County action. He stated that the Planning Director would provide some brief information to get the discussion started.

Keith Megginson, Planning Director, stated that the property owners had been sent information regarding tonight’s meeting, and this meeting would be conducted in a similar fashion to the last meeting; that some of the property owners may have looked over the tax implications of the various zonings and may have changed their minds from what they had originally decided; that if not and they had filled out the affidavit, that would not change; that they had attempted on some of the properties that if only a few acres were used as a business they had indicated the area of the property that was used for business or industry, shown it on the map, and then the property owner could respond as to whether that was appropriate or they wanted more of the property zoned; and, that ultimately the Board would make the decision once the zoning was changed on the property whether they included the whole property, only the structures, or whatever the owner wanted.

Mr. Megginson stated as background that the Board was holding separate meetings to change the Zoning Ordinance regarding how business, industry, and residential property was zoned; that the meeting was scheduled for December 1<sup>st</sup>; that all the information would be posted on the County’s Web site; that the Zoning Ordinance would remain very similar as far as what you could and could not do in a business zone or industrial district, but there were a lot of changes to the format; that later on the Board would hold a public hearing and notices would be posted in various places including on particular properties; that once the public comment was obtained the Planning Board would review it and make recommendations to the Board; that the Board would then consider final action; and, the Board would decide after December 1<sup>st</sup> when that public hearing would be scheduled.

Chairman Lucier stated they would try to consider all of the zonings at once at that public hearing to minimize the chances of having to hold additional meetings.

Commissioner Vanderbeck asked Mr. Megginson to refresh his memory as to the number of parcels being considered for rezoning, how many had responded through affidavits either yes or no, and of those how many did not reply at all. Mr. Megginson stated there were 79 total properties, but they had not counted the number of affidavits that had been returned or the number that had not responded.

Chairman Lucier stated the last time they had discussed it, that there were about 10 to 15 that had not responded. Mr. Megginson agreed that there were only a few. He stated he would like to read through the names one at a time of the people who had signed up to speak this evening, and asked that as each person spoke that they state who they were representing as well as the parcel number if they knew it.

Sally Kost, Planning Board Chair, stated the question she had heard most was the issue of nonconforming use; that if someone decided not to rezone and they were using their property for a business, that it would be nonconforming; and, she would like Mr. Megginson to explain to everyone exactly what that meant.

Mr. Megginson stated that a nonconforming use involved several issues. He stated that when you were in an area that had never been zoned and the County came in and applied zoning to the property, you may have a building that was too close to the property line, noting that the County had a required setback from the property line of 50 feet, yet your building may be only 25 feet away; that you may have a required yard size of 3 acres, and yet your property was only 1½ acres; and, that the County may say you could only have residential use on your property but you already had a business there. Mr. Megginson stated those were three types of nonconformity, and the County's ordinance, like many, was liberal as far as how they handled nonconformities; that you could increase the size of a building, you could increase the number of buildings used for a business, and you could expand to other areas on your property; and, that the Board recognized those were existing businesses and did not want to put regulations on them that would cause those businesses to suffer.

Chairman Lucier emphasized that the Board had not taken any action and would not take any action to change the ability of businesses in nonconforming areas to operate or diminish the right of those businesses to operate or expand.

Ms. Kost stated Mr. Megginson had talked about increasing the size of buildings and using additional buildings for business, but could the actual type of business be changed. Mr. Megginson stated you could change the general operational nature of the business. For example, he stated, if you had an asphalt plant that was operated as a drum plant and you wanted to switch the manner in which you operated that asphalt plant, or the operational nature of it, you could do so if it remained an asphalt plant; but, if you wanted to change the asphalt plant to a concrete plant or a lumber company, that was not the same use and you would have to go through the process to change that use.

Chairman Lucier stated that was one of the reasons for tonight's meeting, because anyone could choose to have a nonconforming use rather than having it zoned Light Industrial, Business, or whatever was appropriate; but, if you left your property nonconforming you could expand your business, but you could not change the nature of your business. He stated if you were zoned Light Industrial, Heavy Industrial, or Business then you had an entire spectrum of things you would be allowed to change to under the Zoning Ordinance, so that was the advantage of not leaving your property nonconforming although you could leave it nonconforming if you wanted to.

Commissioner Vanderbeck stated that certainly property owners would have the option if they stayed nonconforming to change their zoning later on, but it would be at their cost. Mr. Megginson stated that was correct, adding that if a property were zoned Business, then they could operate businesses such as a drug store, a hardware store, a clothing store, a gas station, or whatever, if it were changed now; but, the property owner did have the option to remain nonconforming. He stated later on, a property owner would be able to come to the County and plead his case as to why he should be able to have all those other uses, but it may be more difficult because their neighbors may object and the Board would have to consider any and all uses that were permitted in the Business district. Mr. Megginson stated they would also have to look at the Land Development Plan to determine if the proposed use fit the general policy and guidelines. He stated that was why it was easier to get it done now rather than later.

George Farrell stated if a property owner wanted to go with B-1, was that conditional where you had to state the conditions now. Mr. Megginson responded no, adding that what Mr. Farrell was referring to was if you had a conditional use district where certain types of businesses were allowed but none of the others.

Commissioner Thompson stated that one of the things they may want to speak to at some point tonight was that there may be a question in some people's minds regarding tax value of the property as it stood now, and if it were zoned Business what the implications might be in terms of property value. Tina Stone, Tax Administrator, responded that there would be an increase in the property tax but it would be hard to say what that increase might be at this point.

Chairman Lucier stated he assumed a number of people had called the Tax Office to ask those kinds of questions, particularly those who had asked those questions at the last meeting. Louis P. Moore stated he had called but had not been given specifics of the tax rates and how they could change if he went with the various zoning designations. He stated at this point, he had not gotten those figures to see which way he needed to zone his property according to what it would cost him. Chairman Lucier stated those figures needed to be supplied.

Mr. Megginson stated one of the complications was that they were going through a revaluation to re-establish the value of properties, and who knows what that would be with these economic times. Mr. Moore stated if you were going to use current economic times, then the tax values should be coming down.

Ms. Stone stated it was hard to be specific right now because those values had not been finalized.

Chairman Lucier asked when property owners would receive information on their revaluation. Ms. Stone replied in February. Chairman Lucier stated that the question of revaluation was a different question from what the tax implications might be from going from Residential/Agricultural to Business.

Mr. Moore asked then how would they know at this point what to choose as a zoning designation, if they did not know the tax implications.

Commissioner Vanderbeck stated he believed staff was doing their best to provide a historical perspective; that they could give them historically what would happen if you changed from one zoning classification to another, but no one could make the claim in this economic climate what that prediction with the revaluation would be.

Commissioner Barnes asked was it possible when the revaluation was completed, and Mr. Moore wanted to know what his property taxes would be for the various zoning classifications, that he could put in a request to get that information for each of those classifications. He stated he understood that people would want to know the tax implications before they jumped in and chose a zoning classification, and wanted to know could anyone who wanted it get that information. Ms. Stone responded those rates were not finalized; however, she could provide a percentage of what they might see as an increase without actually giving a specific value or rate.

Commissioner Barnes stated he did not see how they could provide a percent rate for any of those categories unless it dealt with a specific property, because if Mr. Moore wanted to know what the taxes would be if his property were zoned Light Industrial then what fit his property on that side of the County would not fit another's property on the opposite side of the County. Ms. Stone stated it was possible to look at Mr. Moore's entire tract and tell him what the percentage increase would be if he rezoned to Light Industrial or whatever. She invited Mr. Moore to visit her office and she would provide that information.

Chairman Lucier stated the issue was that anyone who wanted information should be able to get what that value would be under the various zoning options. He stated they needed to have those values so they would know what they wanted to propose to the Board as a zoning classification.

Commissioner Barnes stated it appeared that Mr. Moore needed to come into Ms. Stone's office and get that information.

Commissioner Thompson stated there were likely others present who had the same question as Mr. Moore, so perhaps they should define a process tonight for everyone to get that information. He stated generally when property was rezoned from Residential to Commercial that typically there was an increase in value, but what they could not say was what that increase

would be. Commissioner Thompson stated that Ms. Stone was saying she could provide a percentage, and asked how accurate would that percentage be. Ms. Stone stated that legally she could not release the 2009 values until after January 1<sup>st</sup>, but she could look at the 2008 values and the acreage and provide an estimated percentage of what the taxes would be for a particular zoning after the revaluation.

Commissioner Barnes stated he assumed he was not the only person who had received a call from the Tax Office setting an appointment for a visit to go over his business property for tax evaluation, so he would know then what his value was. So, he stated, he would assume that others who had a business would be going through the same process. Ms. Stone stated that was part of the audit program for business/personal property, not real estate. Commissioner Barnes asked if everyone was being audited. Ms. Stone they had been conducting such audits since 1999.

The County Manager stated but you did not audit everyone in the same year. Ms. Stone stated that was correct.

Mr. Moore stated he had been told by Karen Jones in the Tax Office a few days ago that the land he was using now was already being taxed as Commercial, not Residential. He stated that was why he needed to know what the tax implications would be if it were Light Industrial or Business.

Karen Jones, Appraisal Supervisor, stated when she had spoken to Mr. Moore and provided the rates, those rates were for 2008 and not 2009.

Chairman Lucier stated a key question would be the implications when someone was using, for example, 2 acres of a 20-acre parcel for a business, and that person might want to leave the zoning for that 2 acres as Business since they were already being charged that rate. He stated if they kept the same proportion of the property as Business, there should be no impact on the taxes, depending on what the revalued number was. Ms. Stone stated that was correct.

Mr. Megginson stated you should be taxed on what the actual use was regardless of what it was zoned. Ms. Stone stated that was correct, whether the property was zoned or not. Mr. Megginson stated there could be situations with larger land holdings where there may be mining, but the land was timbered and timbering could eventually become a part of the mining operation. He stated it was his understanding that the timbered property could still be zoned Industrial but that only the part used for mining would be taxed as Industrial. Mr. Megginson stated that would further complicate how the value was determined since you would be taxed for the portion of land used for mining but not for the timber value.

Commissioner Thompson asked how then did rezoning a property change the value if it was an existing business and they were being taxed at the Business rate. Ms. Stone stated if someone was using only a small portion of their property for an existing business, then that business would be taxed at one rate and the rest of the property as residual property. She stated if they added additional acreage, then the tax would increase for the additional acreage.

Ms. Stone stated for Mr. Megginson's example of a mining operation, as long as the zoning did not change and the use allowed them to have a Forest Management Plan, then they would continue to be taxed at the land use rate.

Chairman Lucier stated he believed they should proceed with allowing citizens to speak and ask specific questions. He stated he believed the Board would have to come back at the end of the meeting and make a few decisions regarding process, noting there was no doubt there were complications regarding the revaluation process because precise numbers could not be supplied about what the tax impact would be and those numbers would not be available until February. Chairman Lucier stated perhaps they should consider making final decisions after that information was at hand.

Dennis Fair stated his property was not zoned and they had chosen to be zoned Business. He asked if because the zoning changed but they had not placed any buildings on the property, would their taxes go up even though it was still vacant land.

Chairman Lucier stated there was not now an existing business on that property. Mr. Fair stated that was correct, although they did intend to use the property as Business once the economy improved. He stated they were concerned that they were paying a higher tax, and wondered if just because you changed the property did not mean that it was worth more since there was nothing on the property. Mr. Fair asked in that case, should their rate stay the same.

Chairman Lucier stated if the zoning was left at RA-40 the property should not be affected, but it would be affected if the zoning was changed to Business.

Commissioner Barnes stated the question was if Mr. Fair rezoned to Business, what the taxes would be.

Chairman Lucier agreed, but those firm numbers were not yet available; and, that was why he had suggested waiting until February when those values were at hand. Mr. Fair stated it was his belief that he should not have to pay the Business tax rate until he actually used the property for a business. Chairman Lucier stated he would have no impact on his taxes unless the zoning classification was changed. Mr. Fair stated they had already signed the petition and applied to be zoned to Business, but were not yet using it for Business.

Commissioner Cross stated in Mr. Fair's case, he had made improvements to the property by putting in water and sewer lines, and asked wouldn't those be taxed as improvements to the property. Ms. Stone replied yes, that Mr. Fair was already being taxed at the Commercial rate.

Commissioner Barnes stated but if it had not already been changed to Commercial or Business, and Mr. Fair had reclassified the zoning, he would not know what his taxes would be. Ms. Stone stated he would not know that amount exactly until the values were available; however, anyone could come in and staff could offer a fairly close percentage estimate of what that increase would be, based on acreage and property value.

Chairman Lucier stated given that, it would be helpful for people to ask specific questions tonight but not to make any final decisions until after the tax values were available. Mr. Fair stated it had been his intent to have mixed use on his property for a strip mall, storage, and an RV park, but they had been told that they did not have vested rights for an RV park even though they had put in a \$100,000+ septic system for that RV park; that now they were restricted as to what they could do with their property, and their "heads were still spinning" from being unzoned to being told what they could and could not do with their property, and they still did not know what to do; that he had provided information and laid out his case, but he did not believe he was getting a receptive response to his questions; that if you could have an RV park in that area of 10 acres or less, why could you not have part of your property as an RV park and part of it as mixed use; that their whole intent had been to have sportsmen come to that end of the lake and have business use for the public of a strip mall, plus have storage and an RV park, in order to provide a destination point for that end of the lake; that the RV parks in that particular area had turned into work camps for the surrounding plants; that their intent had been to provide facilities and shopping for sportsmen and families who came to that end of the lake for recreation; and, that they had been dumbfounded to learn they had spent the time, money and effort on design towards that intent to now be told they could not do it.

Chairman Lucier stated that Ms. Stone had said Mr. Fair was now paying taxes at the Commercial rate. Mr. Fair stated they had apparently been paying that every since the septic system had been installed.

Commissioner Cross asked had the Board not recently changed to have an RV park as a commercial use. Mr. Megginson stated yes.

Mr. Fair stated the Board had done that, but that Mr. House was on public record stating that there was a 50-foot setback from the property lines; that when they had designed the RV park they had 25 to 30 foot setbacks from the property lines due to their convenience center for RV's to come and assemble; that with that 50-foot setback requirement their plans which had cost them \$5,000 were now useless; that they had already made their intent known and designed the uses prior to being zoned Commercial, so what were the setbacks for property where that intent and design had already been established; that a 50-foot setback was quite a bit off the property line; and, that if you took 50 feet all the way around the property they would be losing

2 acres of land, and asked would they be paying Commercial taxes on that land that could not be used.

Chairman Lucier stated if Mr. Fair had been paying taxes at the Commercial rate, it seemed to him that he would have vested rights in that property as a commercial piece; and that the County by charging that Commercial rate had indicated that that was what he had. He stated he believed the County needed to work with Mr. Fair to make sure he could do what he needed to do. Mr. Fair stated he would appreciate that help, but noted he had been relaying messages to the Planning Department with no success. Chairman Lucier stated he believed Mr. Fair had convinced the Board that he had a good point, and they would work with him to resolve the issue.

Bob Knight asked were the revaluations done on the years when land and housing costs were inflated, or on what the actual value was now in the current economic crisis. Ms. Stone stated the revaluation was based on sales over the last four years, including the last year to 18 months when the economy took a downturn. Mr. Knight stated then they would be taxed at a higher rate rather than the current value. Ms. Stone stated they would make an adjustment based on the current value.

Chairman Lucier stated that the bottom line was that they would do the best job possible to give a fair market value on property, and the current economic conditions would be taken into account. He asked if Mr. Megginson wanted to proceed by calling on those on the sign-up sheets. Mr. Megginson responded yes, and asked anyone who had not already signed up who wanted to speak to do so now. He noted that the next speaker was Nick Robinson, who would be speaking about pages 63 and 68 in the packet.

Chairman Lucier stated that page 63 was parcel 72029 and 68 was 76187

Nick Robinson, Cherokee Brick, stated that it was their desire to have both of those parcels zoned completely as Heavy Industrial. Mr. Megginson stated they had received that information.

Chairman Lucier stated the total acreage of 72029 was 80.59 acres, and part of that remained in the unzoned part of the County. Mr. Robinson stated that was correct. Chairman Lucier stated then the only action to be taken would be on the part that was 1,500 feet from the highway. Mr. Megginson pointed out on the map the red line that represented the zoning area and the unzoned area. Mr. Robinson stated they wanted to zone the land consistent with its use, which was Heavy Industrial, for that part that was actually within the 1,500 feet. Chairman Lucier stated the Board had talked about that at the last hearing, and did not believe they had any issue with that. Mr. Megginson agreed.

Mr. Robinson stated for parcel 76187, he assumed from what he had seen that all of that parcel was within the 1,500 feet, and would like to have that zoned Heavy Industrial as well. He stated that both parcels were already being taxed as Heavy Industrial. Mr. Robinson said the only remaining issue was assuring that even if the property were zoned Heavy Industrial, to the extent that they had been using the property with a Managed Timber Plan, that they retain the ability to keep that land use.

Chairman Lucier stated that would be his understanding that they could do so. Ms. Stone stated that was correct. Chairman Lucier stated then the zoning would have no impact on the current use or current plans or how the property was currently taxed.

Ken Russell, Russell Manufacturing and Sales, referring to parcel 9914 on page 26, stated that at the last meeting he had asked to be rezoned to Heavy Industrial but he had changed his mind and wanted to be rezoned as Light Industrial.

Chairman Lucier asked was Light Industrial consistent with the current use. Mr. Russell replied yes, noting that was how they were now being taxed on the whole 3.6 acres. Chairman Lucier stated then there would be no tax impact on that property.

Darian Locklear, representing Southern Comfort Upholstery, parcel 11665 on page 35, stated that they wanted that property zoned as Business.

Chairman Lucier asked if that was consistent with the current use on the entire 1.63 acres. Mr. Locker replied yes. Ms. Stone stated they were not being taxed for that use now, so they would experience an increase in their rate.

Commissioner Thompson asked where the business was located. Mr. Locklear stated it was just off Highway# 421 on Moody Loop Road.

William L. and Peggy J. Cockman, parcel 12228 on page 39, were representing the property of M. W. Johnson of Jenkins Gas on Hadley Mill Road. Mr. Cockman stated he had talked this week to Ms. Stone and Jason Sullivan and they had answered some of his questions, but believed he had been misled regarding the 1,500 foot setback; that the entire 22 acres was zoned Heavy Industrial; that the land was not 1,500 feet deep; that he had understood that they could not put a business on that property unless it went 1,500 feet deep; but now, he understood that that was incorrect.

Chairman Lucier stated that was incorrect. Mr. Cockman stated that had answered some of his questions; that what he had intended to do tonight was for the 2 acres already zoned Heavy Industrial to stay the same, but that the remaining 20 acres, which had nothing on it, be zoned something else. Chairman Lucier asked did they want it zoned RA-40. Mr. Cockman stated first they would like to know what the rate would be, stating it had been their intent to ask the Board to rezone to Heavy Industrial three more acres beside of the two areas already zoned Heavy Industrial. Chairman Lucier stated at present they were being taxed as Heavy Industrial for the entire 22 acres. Mr. Cockman stated that was correct. Chairman Lucier stated then what they were requesting was that only five acres of that 22-acre tract be zoned Heavy Industrial, which meant their taxes would go down. Mr. Cockman responded that was fine with him, noting the remaining 17 acres should be rezoned RA-40. Chairman Lucier stated he believed that was a legitimate request.

Peggy Cockman stated if they were allowed to rezone the additional 3 acres as Heavy Industrial, would they be allowed to place a business there.

Chairman Lucier stated as long as it was consistent with the list of permitted uses. Ms. Stone stated she could say to Mr. and Ms. Cockman that there was about a \$1,000 difference in the rate.

Commissioner Barnes asked was that per acre. Ms. Stone replied yes.

Chairman Lucier stated then the tax savings would be about \$17,000. Mr. Cockman stated the taxes had jumped from about \$80,000 to \$230,000 when it was rezoned, and they had been paying that for some time. Chairman Lucier stated he understood why they would want the remainder of the property zoned RA-40 since it was not being used, and stated the rezoning request was a reasonable one.

Ronnie Vaughn, referring to parcel 10810 on page 29 and located on NC #87 N at the intersection with Castle Rock Road, stated that the building in question was on a triangular shaped lot; that their initial request was a rezoning to Light Industrial; that it was their understanding that that would permit light automotive repair and light machine shop; that they had requested the ability, since they owned the two adjacent tracts north of this parcel, to change the size of the lot because the guidelines for improvement of the septic or well were different today than when the building was put on the property; and, the unknown in their request was just how much they would need to have to permit them if necessary to drill another well or to rework the septic system.

Chairman Lucier stated if Mr. Vaughn did not have enough property to install a proper septic system but did own additional contiguous property, did that additional property where the new septic lines would go need to be zoned Light Industrial as well. Mr. Vaughan stated that was not what he was asking; that his question was what would be a reasonable amount to add to the existing parcel in order to provide enough land for improvements to the septic and/or well.

Commissioner Cross stated at the last hearing he believed Mr. Vaughn had mentioned extending his property line to the property to the north. Mr. Vaughan replied yes, adding that he was talking about making the lot a rectangle, but what he did not know was if it would provide them adequate space to accommodate any changes to a septic system or well.

Commissioner Vanderbeck stated that may have to depend on a soil sampling. Mr. Vaughan stated the other issue would be the setback required from the side property line, so his first request would be to have the Planning staff tell him what would be a reasonable amount of land needed to expand the septic and well.

Chairman Lucier asked if that seemed like a reasonable approach. Mr. Megginson stated that was site specific; that you could have an easement from the parcel with the business on it over to the property next to it and have the septic system located there. Mr. Vaughan stated he would prefer not to do that. Mr. Megginson stated he could also add land from that adjacent tract over to the tract used for the business, or he could have the Health Department come out and show him where that would be on the property. Then, he stated, the County could zone in a way that did not follow Mr. Vaughn's boundary line.

Mr. Megginson stated he had talked with the Attorney about this as well as a similar situation, and he had indicated that at this point it was not required that a wastewater system be on the same property that was zoned. Mr. Vaughan stated he appreciated those considerations, but his concern was that for the future that everything needed to be clear in regards to the business.

Chairman Lucier suggested that Mr. Vaughn have the Health Department come out and give him an idea of what the best location would be for an expanded septic system, and that based on that information they could then add whatever amount of property was needed. Mr. Megginson stated that would vary again based on what the property was used for now and in the future, noting that other uses would have different wastewater needs. Mr. Vaughan stated it was his understanding that if the property were zoned Light Industrial, then any uses up to and including Light Industrial would be permitted. Chairman Lucier stated that was correct. Mr. Vaughan said then his question was just how much additional land was needed from the adjacent lot in order to provide enough land to improve the septic or drill a new well.

Chairman Lucier stated Mr. Vaughn wanted that additional land added on to accommodate any future uses of the property. Mr. Vaughan responded yes, to the point that it could be reasonably determined. Chairman Lucier stated he believed the only way to determine that would be to have the Health Department come out, tell them what types of businesses would be allowed, and ask them how much land would be needed. Mr. Vaughan stated he would do so.

Commissioner Vanderbeck stated as far as the well he did not know if the Health Department could help with that. Mr. Vaughan stated he understood that.

Chairman Lucier stated that once he had the septic tank then he would know what his septic fields were, so he would know what areas could be considered for a well.

Louis P. Moore, Moores Welding and Crane on Elmer Moore Road, parcel 8508 and 8509 on pages 9 and 10, stated that he was now being taxed at the Commercial rate, and his question was what the difference would be if he left it RA-40 and was taxed at the Commercial rate or if he rezoned it to Light Industrial. He stated he could leave it as it was or rezone it to Light Industrial, but it would depend on the tax implications and he did not want to make that decision until those figures were provided to him. Mr. Moore said that that time, he would then apply for rezoning if necessary.

Chairman Lucier stated he believed they could tell him now what that percentage difference would be. Ms. Stone stated on parcel 8508 Mr. Moore had previously asked that the entire parcel be rezoned, and asked was the request for all of 8509 to be rezoned as well. Mr. Moore replied, that the request affected only one acre to be zoned Commercial.

Chairman Lucier stated then he was asking what the difference would be between Commercial and Light Industry. Mr. Moore stated yes.

Ms. Stone stated the difference in the rate between Commercial and Industrial would be about \$15,000.

Chairman Lucier stated then it was less for Industrial than Commercial.



Van Thomas, referring to page 23, parcel 9843 on Thrift Road, stated that the lot was less than 10,000 square feet and that the property had remained as it was for the last 40 years. He stated his question was if it remained zoned as Business would they have any tax implications. Ms. Stone replied no. Mr. Thomas stated that the soil there was not good and was not an option for septic, and if the Gulf Post Office ever did decide to move out he did not know if they would be able to use that building for anything else. With that being said, Mr. Thomas asked if the current zoning would allow for something like a storage facility or small warehouse under Business zoning.

Mr. Megginson stated that the permitted uses outlined in the Zoning Ordinance would permit a self-storage or mini-storage facility under the Business zoning. Mr. Thomas stated it would not be a mini-storage facility, but more something like a small warehouse, and asked would that be a permitted use. Mr. Megginson stated yes.

Chairman Lucier stated the spectrum of activities allowed would include what Mr. Thomas had described. Mr. Thomas stated the only other comment he had was that during this economic climate he believed the Board recognized that small businesses needed all the help they could get and encouraged the Board to listen to small business people, and that those on the west side of the County did not always feel like they had a voice. He thanked the Board for its consideration, stating that small businesses needed help, and then referred to the recent closing of the chicken plant in Siler City.

Chairman Lucier agreed, noting they were in the process of developing a marketing plan for the Business Park, and what the Board was doing tonight was trying to make sure that what was being done with the zoning did not adversely affect any business owners. He stated even if it were good economic times they would not want to do that. Mr. Thomas thanked the Board again for its consideration.

Charles Lutterloh, Lutterloh Trucking on NC #87 N, parcel 5949 on page 4, stated that he still farmed on the land and he wanted to be able to continue operating his trucking business but did not know what the tax implications would be by rezoning to Business or to Light Industrial, although he understood that the taxes would be greater. He stated he was considering taking the 3 acres outlined on the map and applying to have that rezoned as Business so that he could expand his business later on if he found it necessary.

Chairman Lucier stated at present the entire parcel was 10 acres, but only 1.9 acres was used for business. He asked if Mr. Lutterloh was currently being taxed at the Business rate for that 1.9 acres. Ms. Stone stated that 1.9 acres was not being taxed at the Business rate; that the entire parcel was zoned Residential/Agricultural.

Chairman Lucier stated then that was a farm with a secondary business. Mr. Megginson stated that under State law the farm use was exempt from zoning. Chairman Lucier stated then Mr. Lutterloh could continue his business as it was without any tax implications. Mr. Megginson stated the land being used for the trucking business was not used for farm use.

Mr. Lutterloh stated it was used for his farm, but for other uses as well.

Mr. Megginson stated that the land used for the business could be zoned Light Industrial to allow the business, or, the whole parcel could remain Residential/Agricultural and the business could remain a nonconforming use. He stated that would allow Mr. Lutterloh to use that area or more for his business. Mr. Lutterloh stated then it would be better to leave the zoning as it was. Mr. Megginson stated if he did not plan to change the use of the property to some other use the answer was yes, but if he changed the use to something else the answer would be no.

Commissioner Thompson stated perhaps Mr. Megginson should explain the implications of a nonconforming use as opposed to Light Industrial Zoning. Mr. Megginson stated if Mr. Lutterloh continued to operate the trucking business and the property remained Residential/Agricultural or a Residential-1 zone after the new ordinance was adopted, then he could continue to operate that business and could expand it to include additional buildings or additional acreage, but he could not change that use to something else.

Mr. Lutterloh stated then he would prefer to leave his property as it was.

Chairman Lucier stated then Mr. Lutterloh would prefer to leave his property as nonconforming, which simply meant that nothing would change unless he changed the use of the property. Mr. Lutterloh stated that would be his preference.

Dennis Fair, referring to parcel 78285 on page 71, stated that the Board and staff had been helpful in answering questions earlier, and wanted to make sure he understood the information. He stated he wanted to have mixed usage and have an RV park on the property, with the original intent of Commercial zoning and moving forward with that.

Chairman Lucier stated that currently Mr. Fair was being taxed the Business rate on the entire 10 acres. Ms. Stone replied that was correct.

Mr. Fair stated there was between 2½ and 3 acres of septic field on the property, and about an acre consisting of a CP&L right-of-way, so they had only about 5 acres available for use; that with the 36% impervious soil rules that left them with about 3½ acres that could actually be used. He stated he wanted to make sure they could move forward with their original intent.

Chairman Lucier asked what the issues were with this property, noting it appeared to him that Mr. Fair was being taxed at that rate, and he had made investments towards the business. Mr. Megginson stated that Mr. Fair's issue had been what he could do until the Board made a decision about doing something regarding the zoning other than Residential/Agricultural. But, he stated, if the Board zoned it Business, then he would be free to do any and all permitted uses under that zoning, adding that Mr. Fair was also limited by the 36% impervious rule because he was in a watershed. Mr. Megginson stated the setback would apply as far as the actual use of the land.

Chairman Lucier stated he did not think there was an issue with zoning Mr. Fair's property B-1. Mr. Fair asked was an RV park included in the uses under B-1 zoning. Chairman Lucier responded yes.

Mr. Fair asked what the required setback was on RV spaces from the property line. Mr. Megginson replied 50 feet from the outside property line. Mr. Fair asked then were they taxed on that unusable property; that if so they would be paying Commercial rates on non-useable property; and, that was a lot of space if you had a limited space to work with already, say 300 feet wide, and 100 feet of that was taken away. Mr. Megginson stated the 50-foot setback counted towards the pervious area, and you were taxed on that.

Mr. Fair said they had had a 30-foot setback between RVs per the Fire Marshal's code, and asked was that 50 feet from the property line to a building or from the property line to an RV itself. Mr. Megginson stated that it was 50 feet from a building/structure, and the RV would be considered a structure.

Mr. Fair asked could he request an adjustment back to 30 feet to meet their plans already drawn up at a cost of \$5,000. Mr. Megginson stated that request would have to be made to the Zoning Board of Adjustment, who would make a determination if some error had been made in making that decision, or to have the ordinance changed. Mr. Fair stated it was his understanding at the time the plans were drawn up that the setback was 25 feet, and at one time there was no setback because they were unzoned all the way around the property.

Chairman Lucier stated he understood the issue, and believed what they would have to do was to have Mr. Fair and Mr. Megginson put something together for the Commissioners to consider on this, because he did not believe that could be decided tonight. Mr. Megginson stated he would work with Mr. Fair and bring something back to the Board for consideration.

Chairman Lucier stated he believed the issue with the setback was the concern, and that the zoning to B-1 was not. Mr. Fair agreed.

Frank Foushee, Ferrell Gas on Old Graham Road, parcel 5971 on page 5, stated that his request was that this parcel as well as parcels 70612 and 72538 be combined with the same zoning.

Chairman Lucier stated his request was that all three of those parcels be zoned to Heavy Industrial. Mr. Foushee stated that was correct. Chairman Lucier stated the current use was that one acre was being used for gas tank storage and was being taxed as Heavy Industrial and the remainder was taxed at RA-40. Mr. Foushee stated it had been taxed as unzoned until the RA-40 was applied, noting that when those lots were recorded they were recorded to be reattached, and on the map recorded at the Courthouse there was a designation that they were not to be new building lots and that they were to be reattached.

Commissioner Thompson asked how many total acres were the three lots. Mr. Foushee responded about 17 total.

Mr. Megginson noted he could not locate one of the lots on his map. Mr. Foushee replied that he did not believe Mr. Megginson's map was exactly right because two of the lots had been combined.

Chairman Lucier asked if they had identified the correct three parcels. Mr. Foushee stated he did not believe that was the whole number for the 7-acre piece unless it was always left together. Mr. Megginson stated if it had never been sold then the Tax Office had not put in a dividing line and it had been left as one tract. Mr. Foushee asked what parcel 70612 was shown as on his map. Mr. Megginson stated that was the 7-acre tract. Mr. Foushee stated then there were actually two tracts. Mr. Megginson stated that until and unless a deed was actually recorded with two separate owners, then the Tax Office would leave it as one parcel. Mr. Foushee stated he recalled that the 10 acres was never separated from the original tract because it was around 30 acres to start with, so parcel 70812 was never separated by any map from the 10 acres.

Chairman Lucier stated they would need to determine exactly which lots were being considered and exactly what Mr. Foushee's request was, noting that would be a significant expansion of the current use and they would likely have to have a public hearing on that. Mr. Foushee stated but it had never been separated and had remained the same piece.

Mr. Megginson stated Mr. Foushee could consider rezoning only the acreage to be used for business or industry. Mr. Foushee stated if the parcels had been together the entire time then he did not believe that would be appropriate. Mr. Megginson stated he understood that, but that he could do that. Mr. Foushee stated he had hoped the Board would not see it that way. Mr. Megginson stated Mr. Foushee needed to think about what the tax implications would be if he had 17 acres zoned Heavy Industrial. Mr. Foushee stated whatever the tax implication was he would have to pay it.

Chairman Lucier stated that at present he was only being taxed Heavy Industrial for the 10 acres. Mr. Foushee stated he wanted the entire acreage zoned Heavy Industrial. Chairman Lucier stated then he was saying the tax implications were not important to him. Mr. Foushee stated it was important, but was not his first consideration. Chairman Lucier stated that because this was such an expansion he believed they would need to wait until the public hearing to make a final decision.

Commissioner Vanderbeck stated he would be more comfortable with that. Mr. Foushee asked if it had been arbitrarily zoned RA-40 why did it have to go to public hearing to change the zoning to what it was being used for.

Commissioner Thompson asked was Mr. Foushee saying it was all one parcel.

Ms. Stone asked if Mr. Foushee had a survey showing it as three parcels.

Chairman Lucier stated right now the current use was the one acre, and because of the expansion to the entire 17 acres it would need to be considered at public hearing. Mr. Foushee stated his point was he was not expanding it.

Mr. Megginson stated Mr. Foushee was saying he was not expanding the property, and what the Board referred to was that he could be expanding the use significantly if the other 16 acres were used as Heavy Industrial.

Mr. Megginson stated if the Board wanted to consider this request they could notify all the adjacent land owners of that 17 acres for purposes of the public hearing, or they could just do the front parcel. Mr. Foushee stated he had understood that the rezoning would be done as a blanket action and not rezoned individually. Mr. Megginson stated when it was all zoned Residential/Agricultural that was correct, but because there were individual parcels they would need to post the property that was being zoned, notify adjacent property owners, and put an ad in the newspaper for each individual parcel. Mr. Foushee stated that was the way it was done when it was zoned RA-40. Mr. Megginson stated no. Mr. Foushee said that was his point. Mr. Megginson stated all of the parcels had been listed individually, and they had posted all the roads, because the zoning was all one big area going to the same zone and they did not have to do each individual parcel. He stated they had sent letters out to every property owner.

Commissioner Thompson stated that he believed the Board wanted Mr. Foushee to understand and make sure that he was not treated in a different manner than anyone else tonight. Mr. Foushee stated he had submitted an affidavit as requested, but nothing had happened. He stated that now he was being told that he would have to go to public hearing on his particular parcel.

Chairman Lucier stated the zoning would all be done at once. Mr. Foushee stated that was not what he had heard Mr. Megginson say. Mr. Megginson stated the public hearing would be for all the 79 properties that were being rezoned from RA-40 to something else. Mr. Foushee stated he now understood the process.

Ashley Madison, L&J Ceramics on Chicken Bridge Road, parcel 67174 on page 59, stated that there was only a small warehouse on that property and was requesting that it be rezoned Light Industrial.

Chairman Lucier stated the full tract was five acres, and the property was used as for storage/distribution. Ms. Madison stated they did not manufacture ceramics on the property, but used it only as a distribution center. Chairman Lucier asked how it was now being taxed.

Ms. Stone stated it was not now being taxed as Light Industrial so Ms. Madison would see an increase in her taxes.

Ms. Madison asked if once they received the information on what the new taxes would be and changed their minds, could they come back to the Board to request a change.

Chairman Lucier responded yes, and asked what the percentage difference would be in the taxes. Ms. Stone replied Ms. Madison would likely see between a \$40,000 and \$50,000 increase in her property value. Ms. Madison stated that would be about a 50% increase.

Mr. Megginson stated regardless of what she did, she would see about that increase in taxes because that was the use of her property. Ms. Madison stated she understood that.

Shannon Plummer, NC Signs on US #64 West, parcel 60119 on page 43, stated that he would like to have the entire 3 acres rezoned.

Chairman Lucier stated Mr. Plummer had attended the previous meeting and had stated he had a house that he had purchased and was setting it up for a business, and he wanted some flexibility in what kind of business it was used for. Mr. Plummer stated he and his partner had purchased the house with the intention of renting it out, but it turned out the house was actually a restaurant; that they had gotten a commercial permit and brought the house up to commercial standards; that they now had a tenant on the property; that from a landlord's perspective what they needed was rezoning; and, that they were requesting rezoning to B-1.

Mr. Plummer asked if during the ordinance rewrite, the zoning classifications would have different uses. Mr. Megginson said yes, but it was mainly an expansion of what was allowed.

Chairman Lucier stated there would be different uses added, but the Commissioners had previously discussed that whatever had been started with those 79 property owners they would continue under the old classification. He stated that was how they had started those negotiations and that was how they would finish them.

Mr. Plummer stated that on the map, one of the buildings was no longer there and all the mobile homes had been removed. He stated that Mr. Nunn had expressed a desire to expand his operation and put up another building to be used for spray painting signs. Mr. Plummer asked why only half of the property was recommended for rezoning. Mr. Megginson stated that they were recommending that only the portion of the property used for the business be rezoned, and that was the half shown on the map.

Chairman Lucier asked if that was Mr. Plummer's request. Mr. Plummer replied yes. Chairman Lucier stated then that was the same issue as with Mr. Foushee's property, and the Board would need to look at that again during the public hearing. Mr. Plummer stated he understood, and added that he wanted to make sure it was understood that there was no residence located on the property. Chairman Lucier stated the property was 3 acres, and what the Planning Department was recommending to be rezoned was what was currently being used for a business, which was 1.5 acres. Mr. Plummer stated that was correct, and they were requesting the whole 3 acres be rezoned B-1.

George Farrell, parcel 84651 on page 78, located on Marshal Road, stated the property was used for self storage, boat storage, flex office, repair garage, landscape business office, retail store, and enclosed boat and RV facility. Mr. Farrell stated that there was nothing on the site yet, and was requesting that the entire site be zoned B-1.

Commissioner Vanderbeck stated this was where he had originally planned to put a storage area. Mr. Farrell replied yes, but B-1 zoning would provide them a few more opportunities as far as use.

Chairman Lucier stated so there was nothing on the property now. Mr. Farrell stated that was correct, they just had the permits for it. Chairman Lucier stated then the Planning Department was guessing how much of the site would be used for business.

Commissioner Vanderbeck stated the lot had been cleared and stabilized with a driveway cut in, so basically what was cleared was what would be used for the business. Mr. Farrell stated that was correct, noting that on the map where the parcel number was printed was the sewer area, and it extended over to where "RA-40" was printed on the map, so that land could not be used.

Chairman Lucier stated the request was to rezone the entire tract to B-1. Mr. Farrell stated that was correct. Chairman Lucier asked had the whole site been cleared. Mr. Farrell replied no, just the front part.

Commissioner Vanderbeck stated then only about a third of the site had been cleared. Mr. Farrell stated 36% was cleared.

Chairman Lucier stated the site was a total of 7 acres. Mr. Farrell stated that was correct. Chairman Lucier said it looked like the Planning staff had cut the property in half, and that there was no issue with 3½ acres of the site but the other 3½ acres would need to go to public hearing. Mr. Farrell stated if the property was rezoned to B-1, they would be grandfathered in under the old ordinance. Mr. Megginson stated the Board adopted the ordinance on January 1<sup>st</sup>, and by the time these properties were zoned he did not think the Board would want to provide the flexibility provided under the new ordinance.

Chairman Lucier stated it was his understanding that all of the 79 properties would come under the old ordinance prior to the rewrite. Mr. Megginson stated they had not taken the B-1 district out, so that may be the confusion.

Chairman Lucier suggested that Mr. Farrell look at the current ordinance and the revised ordinance, noting he may prefer the new one. Mr. Farrell asked when that decision would be made, and could he choose which one he wanted to come under. Chairman Lucier stated he should look at the two ordinances and then let the Board know what he thought about the old permitted uses and the new permitted uses under B-1. Mr. Farrell said then would he have a choice? Chairman Lucier said he would like him to have that choice.

Mr. Megginson stated the Attorney would need to advise them about that. He stated the Board had not wanted to restrict these properties to the three categories in the new ordinance, so they had left the B-1 in the new ordinance but had included some additional permitted uses.

Chairman Lucier stated so the B-1 was left in to accommodate what the Board was doing now. Mr. Farrell said so the old B-1 and the new B-1 looked the same. Mr. Megginson stated he believed so, but they would take a look at it.

Chairman Lucier asked Mr. Megginson to let the Commissioners know what the changes were between the old and the new ordinance in time for the work session on Monday. Mr. Megginson agreed to do so, and said he would provide that information to Mr. Farrell as well.

Roy Pavlik, parcel 18540 on page 41, located on Center Grove Church Road 4 miles south of Pittsboro, stated that the property was 1.2 acres and storage had been on it since the 1920's; that it had been closed down since the 1960's; that he had been building on it for the last few years; that his home was located there; that it bordered Center Grove Church Road and that side had a creek that actually split the property; and, that he wanted to split the property to have Business on one side and Residential on the other.

Chairman Lucier stated then right now there was an old building on the property that was not being used. Mr. Pavlik stated that was correct. Chairman Lucier stated it was now zoned RA-40 and taxed as RA-40. Ms. Stone stated that was correct.

Chairman Lucier asked what was the acreage of the part the Planning Department was recommending be rezoned. Mr. Pavlik stated about one-quarter to one-half an acre.

Mr. Megginson stated it was 17,000 square feet.

Chairman Lucier stated Mr. Pavlik was requesting that that portion be rezoned to B-1. Mr. Pavlik stated that was correct.

Chairman Lucier stated they would provide Mr. Pavlik with a list of the permitted uses, and assumed he would want to know what the tax implications would be, because rezoning to B-1 would increase the taxes. Mr. Pavlik stated that was correct, and asked were there regulations about signage. Mr. Megginson stated yes, that there were regulations about how large the sign could be and how far back off the right-of-way it had to be, and that it would have to be on Mr. Pavlik's property. He offered to provide the sign regulations to Mr. Pavlik as well.

Ms. Stone stated the tax implications would amount to between 10% and 15%.

Chairman Lucier stated then Mr. Pavlik's taxes would increase by roughly that percentage with a rezoning.

Renee Gaines and Benny Gaines, BG Gaines Oil, parcel 75440 on page 65, stated that the parcel indicated for rezoning was the parcel the oil company sat on; that originally the land to the right, to the left, across the street, and behind the railroad tracks was originally one tract of land of 12.34 acres; that 3.44 acres had been cut out for the oil company in 1977; that they believed the other land was useless for anything else; and, they were requesting that the entire parcel be zoned Heavy Industrial.

Chairman Lucier asked were they now paying Heavy Industrial taxes. Ms. Stone replied they were paying Commercial taxes.

Commissioner Thompson stated they were actually surrounded by commercial enterprises. Mr. Gaines stated that was correct.

Chairman Lucier stated then the total piece was 12.34 acres, and they wanted the entire tract zoned Heavy Commercial. Mr. Gaines replied yes.

Ms. Stone stated they were being taxed at the Commercial rate only on the 3.44 acreage, and the remaining acreage was being taxed as Heavy Industrial. She stated that he would see a slight increase on the smaller piece, but a decrease on the Heavy Industrial portion.

Commissioner Thompson asked if they used sewer. Benny Gaines replied they had their own septic system. Commissioner Thompson stated they were very close to sewer lines.

Chairman Lucier stated the issue was not bringing the line up from Sanford, the issue was how to pay for the infrastructure in Goldston itself since there were a lot of failing septic tanks in that area and you could not do much of anything due to health restrictions. He stated the question was how to put that infrastructure in without residents having a bill that they could not afford to pay. Chairman Lucier stated the County had agreed to bring the line up from Sanford, and they were attempting to get some grants for the infrastructure; his point being that it might eventually happen. Benny Gaines stated it needed to happen if it were possible.

Commissioner Thompson stated that area was pretty much all industrial.

Chairman Lucier stated Mr. Gaines' request was to zone the entire property the same, whether it be Light Industrial or Heavy Industrial, whatever the Planning Department came up with in terms of what was the most appropriate classification. Mr. Gaines stated that was correct, that they only wanted to continue what they were doing and to potentially have more acreage for use. Chairman Lucier stated there would be an impact of about 10% to 15% on the part that was currently RA-40, but a decrease in the part that went from Commercial to Heavy Industrial.

Alton King, J.R. Moore and Sons located on Thrift Road, parcel 9895 on page 24, stated he was currently paying Commercial taxes and was requesting to be rezoned as Business. He stated he had a good business there and would like to grow and expand eventually.

Chairman Lucier stated it sounded as if B-1 was the most appropriate, and believed this was a straightforward request since he was using it as a business now and the request was to rezone it to what it was being used for, and it would provide some flexibility for future expansion.

Mr. Megginson stated that completed the list of persons who had signed up to speak.

Chairman Lucier stated what the Board needed to consider was when to hold the public hearing, noting that because of the revaluation they were not able to give specific answers regarding tax implications, only percentages, but there were some who wanted that more precise information before making a final rezoning request. He stated they could potentially hold the public hearing in late January, but people would not have gotten their information on the revaluation by then.

Commissioner Vanderbeck stated they may not have received it yet, but he believed he had heard Ms. Stone say the information would be available and could be released verbally after January 1<sup>st</sup>. Ms. Stone stated they should have everything ready to be mailed by the end of January.

Chairman Lucier stated he believed they would need to schedule a special public hearing, and asked Mr. Megginson what timeframe he would need. Mr. Megginson stated if the Board knew what they wanted to do with the parcels, with some of them being straightforward, and that information was given to the Planning staff, then they would need about 2½ months to get everything in place for the public hearing.

Chairman Lucier stated then Mr. Megginson was suggesting the public hearing be held in late March. Mr. Megginson stated late March or early April.

Commissioner Thompson asked if a date had to be set tonight.

Chairman Lucier responded no, he was only trying to get to a reasonable timeframe. He stated they could move faster, but believed some people would be concerned that they did not yet have the tax information. Chairman Lucier stated they should likely schedule the public hearing in March, and that some of the zoning decisions could be made earlier because some of the issues were so straightforward and there was nothing to be resolved by the Board, and perhaps that would shorten the timeframe a bit. Mr. Megginson stated making those decisions earlier would help somewhat, but notification would still need to be made and signs posted on the properties.

Commissioner Vanderbeck stated then March or April would be as soon as they could hold that public hearing.

Mr. Megginson stated that on the handout the Board had received for tonight that the information on Mountaire Farms on pages 36, 75 and 76 should reflect that they did not want their zoning changed.

Chairman Lucier stated that made it easier since they wanted nothing changed, and believed that would be fine with the Board.

**Swearing-In Ceremony:**

The County Manager stated that regarding December 1<sup>st</sup> and the swearing in ceremony, Judge Buckner had confirmed that he would be available to perform the swearings but he had a time conflict in that he had to be in Hillsborough at 7:30. Therefore, he stated, they may need to adjust their meeting time to begin earlier, because Judge Buckner would need to leave Pittsboro by 6:30 in order to meet his obligations in Hillsborough.

Chairman Lucier stated there would be three swearings, for the new and re-elected Commissioners, for the Board of Adjustment, and for the Soil and Conservation District Supervisors. The County Manager stated that was correct.

Chairman Lucier stated if they began the meeting at 6:00 PM, he believed they could complete the swearings by 6:30 PM.

**ADJOURNMENT**

Commissioner Barnes moved, seconded by Commissioner Cross, to adjourn the meeting. The motion carried five (5) to zero (0), and the meeting adjourned at 8:47 PM.

---

George Lucier, Chairman

ATTEST:

---

Sandra B. Sublett, CMC, Clerk to the Board  
Chatham County Board of Commissioners