

This item is to consider adoption of amendments to the Zoning Ordinance to incorporate standards for high impact land uses and after 3 years of discussion we've now reached a point where the Board is being asked to take final action. Also joining me tonight are Caroline Siverson, Planning Board Chair, who will provide comments on the Planning Board discussion and Glenn Dunn, Attorney with Poyner and Spruill, who will answer questions and explain the range of legal issues associated with this topic.

I'll start by providing a brief background starting with a moratorium on oil and gas exploration and development that was adopted in August 2015 and subsequently extended in July 2017 and June 2018 with the current expiration scheduled for the end of this month.

Two tasks of the moratorium were to draft a study of the impacts of oil and gas exploration on Chatham County and develop regulatory standards to address those impacts. The first task was completed in October 2017 with a presentation by Charles Yuill of a report he prepared addressing the possible impacts of this activity on the county. Next, Lee and Chatham Counties joined together to work with Glenn Dunn and Emily Meeker to prepare regulatory amendments to address the impacts of oil and gas exploration.

As you are already aware, there are special statutory provisions adopted by the Legislature that limit local government authority over oil and gas exploration, development, and production activities under GS 113-415.1, which was adopted in 2012. The statute doesn't automatically pre-empt local government regulation, as long as the standards are generally applicable to development. This means that local government regulation cannot be targeted specifically at this one industry. The legislation does include a provision that allows an oil and gas operator to petition the Oil and Gas Commission to review local government rules or decisions to determine if the local government action should be pre-empted.

Following passage of the legislation, the Oil and Gas Commission developed the rules that oil and gas operators must follow to obtain a permit from the state to develop a site.

That sets the backdrop for the development of the regulatory amendments under consideration for adoption tonight. The standards that have been developed focus on requiring a conditional use permit and special study for a range of high impact land uses. There are 18 uses identified in the attachments that are currently, or proposed to be, subject to obtaining a conditional use permit. Additionally, these uses are proposed to be subject to a special study that must be submitted with a conditional use permit application.

Of the 18 uses that are identified, 3 are new uses that are specific to oil and gas exploration, development, and production. Gas and Petroleum Processing is a new use that would only be allowed the property is zoned Heavy Industrial and subject to a CUP. Natural gas compressor station and Oil and Gas Exploration, Development, and Production are also new uses that would be allowed in any zoning district upon issuance of a conditional use permit. These uses are proposed to be allowed in all zoning districts since they are dependent on the underlying geology.

The special study provision requires that a study be completed that is specific to the proposed industry and that would be prepared by a consultant mutually acceptable to the applicant and county. The study would be in addition to an EIA, if one is required, based on the amount of disturbance associated with the activity. The study parameters are not outlined in the ordinance, but will be developed following adoption of the amendments and I'll provide more detail in a few minutes.

A public hearing on the proposed amendments was held in October 2018 and the Planning Board discussed them during their December and January meetings. There were a number of issues addressed during the Planning Board meetings and a description of the discussions are included in the abstract. This includes a list of questions from Planning Board members and responses from Glenn Dunn. Most of the discussion focused on the portion of the amendments that allow oil and gas exploration, development, and production and natural gas compressor stations as a CUP in any district instead of limiting these activities to the heavy industrial zoning district.

The Planning Board voted 7-2 to recommend adoption of the consistency statement resolution and 7-2 adoption of an ordinance amending the zoning ordinance. Since the Planning Board meeting there have been a few changes. Those changes are 1) Gas and Petroleum Processing added as a new use and is proposed to be allowed in Heavy Industrial districts upon issuance of CUP, this is being added to distinguish extraction activities from processing that must occur to prepare the gas for commercial use; 2) the term "production" was added to Oil and Gas Exploration, Development and Production; and 3) the last sentence of Section 17.9 revised to read "This Section 17.9 is also ~~not~~ applicable to an applicant for a conditional use permit for which an environmental impact assessment is required by Section 11.3 of this Ordinance."

Please keep in mind that if the board adopts the amendments doesn't mean that they can't be revisited in the future. In fact, additional evaluation may be needed to address on-going discussions by the Oil and Gas Commission to address several topics that are currently under review.

So, two actions are needed tonight – 1. Adoption of a resolution approving a consistency statement for the text amendments and 2. adoption of an ordinance amending the Zoning Ordinance with a revision to the last sentence of section 17.9 to also require a special study when an environmental impact assessment is required.

If the amendments are adopted, the anticipated next steps are county staff coordinating with the Environmental Review Advisory Committee to develop the special study requirements. There will need to be a set of criteria developed that are uniform for each study followed by specific criteria unique to each industry. We will also need to develop a consultant selection process since some firms may have specialized expertise for certain industries.

I'll now turn it over to Caroline to provide the Planning Board perspective.