

A light blue map of Chatham County, North Carolina, showing a network of roads and water bodies. The map is the background for the text.

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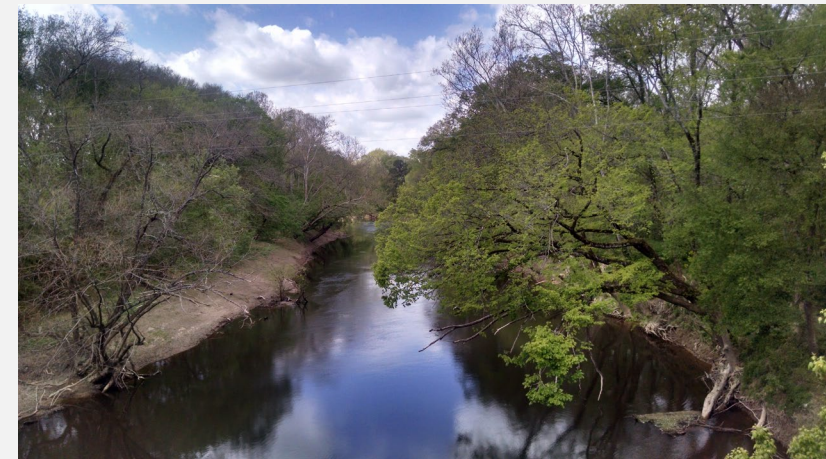
Chatham County, NC

Board of Commissioners

SB 382 & UDO Implementation | January 21st, 2025

TODAY'S AGENDA

- SB 382 Overview
- Down Zoning
- SB 382 & Local Government Authority
- SB 382 Effects for UDO
- UDO Implementation Discussion & Direction



SB 382

- **Session Law 2024-57 (S.B. 382)**

- Ostensibly a Hurricane Relief Bill, this law has many other controversial measures that received much attention. For Chatham County, and most other local governments, the critical aspects of the bill are the amendments on the last page.
- The amended language greatly restricts local governments discretion to amend local zoning ordinances. The statutory provision broadly defines “down-zoning” and provides that local governments cannot adopt a down zoning without written consent of all impacted landowners.

WHAT IS DOWN ZONING?

- Traditionally, down-zoning referred to changes in zoning that reduced the intensity of land use – such as a switch from commercial to residential zoning.
- History of down-zoning in North Carolina:
 - Prior to 2019, almost anyone could apply to down-zone a property - the landowner, a neighbor, or the local government.
 - S.L. 2019-111 introduced a definition of down zoning in the statute. The broad definition was any zoning that either decreases the development density of the land allowed under existing zoning or reduces the permitted uses of the land. This law prohibited “neighbor down zoning.” Only the landowner or Local Government could initiate a down-zoning.



SB 382 AND LOCAL GOVERNMENT AUTHORITY

- Currently there is still uncertainty on the trajectory of the down zoning measures. However, it is difficult to overstate the significance of this bill.
- It is unclear how a local government is to adopt, implement, and maintain the still mandated comprehensive plan.

REMEDIES & MOVING FORWARD

- The Legislature will discuss this law again the upcoming long session. SB 382 will be the subject of continued political controversy. However, the down zoning portion may not get much attention.
- Possible Outcomes of the Long Session
 - More defined, yet still restrictive, definition of down-zoning. This will also have affects on the newly adopted UDO.
 - Total repeal of the down-zoning language.
 - Maintenance of the new language and status-quo.

WHAT HAVE WE BEEN DOING SINCE THIS LEGISLATION PASSED?

- **Proactive Legislative Tracking:** Consultants and staff have actively monitored developments related to SB 382, participating in discussions with NC-APA, NC Plan ListServ, NC Association of County Commissioners, and the UNC School of Government.
- **Collaboration and Insight Gathering:** We've maintained close engagement with professional networks, staying informed on responses and strategies being considered by other jurisdictions.
- **Legal Analysis and Implications:** Conducted a high-level legal review of SB 382 to assess its impact on the UDO.

HOW DOES SB 382 AFFECT UDO IMPLEMENTATION?

- **County-Initiated Rezoning:** Currently paused due to legislative restrictions.
- **Downzoning Authority:** Now significantly limited under SB 382.
- **Ordinance Implementation:** Delayed; the new UDO cannot take effect until compliance measures are finalized.
- **Legal and Compliance Considerations:** Navigating challenges to ensure adherence to the new regulations.
- **Written Consent Requirement:** Unilateral zoning changes are prohibited; written consent is now mandatory from all affected property owners.



HOW DOES SB 382 AFFECT UDO IMPLEMENTATION?

- The following slides include examples of changes to the UDO the BOC may need to consider for compliance with the provisions of S382
- A full UDO review is recommended, based on County Attorney input regarding best interpretation of S382's scope/applicability

HOW DOES SB 382 AFFECT UDO IMPLEMENTATION?

- Need to reconsider how to advance *Plan Chatham's* goal of **rural preservation** without rezoning properties to the new AG and RA districts
- Consider whether to revisit the UDO's **high-density option** for the Watershed regulations (Chapter 8)
 - County may be preempted from reverting to the low-density option for these areas without property owner consent
 - High-density option provides for 12%, 30%, 50%, or 70% BUA depending on watershed district and facilitates densities up to 15 du/ac in conditional districts

HOW DOES SB 382 AFFECT UDO IMPLEMENTATION?

- **Use Tables & Use-Specific Standards**
 - Will require detailed analysis for each district to determine whether the UDO reduces the number and type of principal and accessory uses allowed
 - Need to review use-specific standards to determine which include development standards that reduce “development density” (e.g., increased setbacks or buffers) and must be revised or removed

HOW DOES SB 382 AFFECT UDO IMPLEMENTATION?

- **4.2: Building Design**

- Need to remove provision requiring compliance for building additions greater than 50% of the GFA of the existing structure

- **4.4: Landscaping & Screening**

- Revisit entirety of Section 4.4 to determine which landscaping and screening standards reduce “development density” and must be revised or removed
 - e.g., May need to eliminate new street buffers required along US 15-501, US 64, US 421, and NC 87

- **4.7: Signs**

- Revisit entirety of Section 4.7 to determine which provisions would create nonconformities and must be revised or removed

COMMISSIONER DIRECTION POINTS

Draft Zoning Maps:

- **If Yes:** Staff will continue work on county-initiated rezonings in collaboration with the Planning Board and Board of Commissioners.
- **If No:** Staff will remain ready to resume work if legislative changes occur in the coming months.
- **Staff Recommendation:** Place map preparation on hold, monitor legislative developments, and be prepared to act quickly if needed.

UDO Revisions by Consultants:

- **If Yes:** Engaging consultants now would incur additional contract costs, potentially for changes that may become unnecessary if legislation is revised.
- **If No:** Continuing with the current UDO avoids unnecessary expenditure, with the hope that legislative changes occur this year.
- **Staff Recommendation:** Hold off on consultant-driven UDO changes for now, focusing resources on monitoring legislative outcomes.



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Thank you!

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