



# Chatham County, NC

## Legislation Text

---

**File #:** 19-3231, **Version:** 1

---

Vote on a legislative request to consider amendments to the Zoning Ordinance to revise the list of uses that are eligible for a height exception as recommended by the Planning Board.

### **Action Requested:**

Vote on a legislative request to consider amendments to the Zoning Ordinance to 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. The Planning Board approved a motion, 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 recommended to include removing the term “observation towers” for consistency if the amendment moved to a public hearing (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.

A hearing was held on these items during the Commissioners’ June 17, 2019 meeting. Staff presented the request and no-one else provided comment. There was clarification that the height limit exceptions apply uniformly in any zoning district and allow specific uses to exceed to the maximum provided in the different zoning classification. For example, residential zoning districts have a maximum building height of 60’, but those districts also allow telecommunication towers through issuance of a conditional use permit. The height limit exceptions allow telecommunication towers to exceed the 60’ building height. It was also clarified that the proposed amendments only apply to areas of the county outside of the municipalities and their extraterritorial planning jurisdictions.

The Planning Board discussed this item during their July 9, 2019 meeting and voted 8-2 to recommend adoption of amendments to Section 10.13 to require a conditional use permitting process for assembly occupancies in residential districts. That recommendation has been forwarded to the

Board of Commissioners for final action during their August meeting. The Planning Board could not reach a recommendation on amendments to Section 8.8, Height Limit Exceptions, and requested staff to research what standards adjoining jurisdictions have adopted and provide those at the next meeting. Staff has collected that information and it is provided as an attachment to the notes.

The Planning Board's discussion included whether it was necessary to amend Section 8.8 since the prior action to require a conditional use permit could address the concerns that have been raised about monuments. Other members commented that monuments weren't limited to assembly occupancies and could be located anywhere in the county. Members also discussed whether other activities should be removed from the list of exceptions including flag poles. A member asked if a "monument" could be added to Section 10.13, Table of Permitted Uses, with a stipulation that those over a certain height require a conditional use permit. Staff commented during the July meeting that this type of amendment would then allow monuments as a principal use on a property and that needed to be taken into consideration. Staff also discussed this with the County Attorney and he thought that "monument" could be added to the list of permitted uses. If the consensus of the Planning Board is to recommend adding "monuments" as a use will require another public hearing. The legal advertisement did not include adding a use to Section 10.13 and the Commissioners will have taken action on the current amendments to Section 10.13.

The Planning Board resumed discussion on Section 8.8, Height Limit Exceptions, during their August 6, 2019 meeting. Discussion included whether monuments up to a certain height could be approved administratively and those that exceed the height limit require a conditional use permit. Staff commented it was possible but would require adding the specifics in the table of permitted uses and require a new public hearing. One member expressed concern that the reason for the amendment is that people don't want to look at monuments and they weren't comfortable with that position. Other members commented that as an example a 200' tall monument in a residential neighborhood would be taller than anything in that community and would have visual impacts beyond the property boundary where it is located. Staff also commented that as they researched this topic they became aware that additional text amendments are needed in the Zoning Ordinance and would be bringing them forward in a few months. The Planning Board voted 8-1 to recommend removing "monuments", "observation towers", and "flag poles" from Section 8.8, Height Limit Exceptions. They also voted 8-1 to recommend the consistency statement provided in the Recommendations.

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

Land Use Plan Element, Land Use Policy 5, Strategy 5.1 which reads "Encourage context sensitive development design. This type of design includes elements such as architectural features that resemble historical structures and local vernacular, site design that reduces impacts on historical structures, working landscapes and viewsheds from public roadways, integrated open space, and preservation of unique natural features such as heritage trees and mature forests."

**Recommendation:**

The Planning Board, by a vote of 8-1, recommends adoption of a resolution approving the following consistency statement:

**The proposed amendments are consistent with the adopted comprehensive plan, Plan Chatham, under the Land Use Plan Element, Land Use Policy 5, Strategy 5.1 which reads “Encourage context sensitive development design. This type of design includes elements such as architectural features that resemble historical structures and local vernacular, site design that reduces impacts on historical structures, working landscapes and viewsheds from public roadways, integrated open space, and preservation of unique natural features such as heritage trees and mature forests.”**

The Planning Board, by a vote of 8-1, recommends the following: adoption of an ordinance amending the Zoning Ordinance to delete “monuments”, “observation towers”, and “flag poles” from Section 8.1, Height Limit Exceptions, of the Chatham County Zoning Ordinance.