



# Chatham County, NC

## Legislation Text

---

File #: 19-3107, Version: 2

---

Vote on a request to approve a legislative request to consider amendments to the Zoning Ordinance to require a conditional use permit for assembly occupancies in residential zoning districts and consider waiving conditional use permit application fees for those uses as recommended by the Planning Board.

### **Action Requested:**

Vote on a request to approve a legislative request to consider amendments to the Zoning Ordinance to require a conditional use permit for assembly occupancies in residential zoning districts and consider waiving conditional use permit application fees for those uses 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 (CUP) 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 (UDO) 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.

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.

A hearing was held on this item 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 reviewed this request during their regularly scheduled meeting on July 9, 2019 and discussion included that there were three items to consider for the amendments to Section 10.13 including: recommendation on the amendment, request a fee waiver for future conditional use permits affected by this amendment, and request that performance standards be evaluated as part of the unified development ordinance drafting process. Several planning board members expressed concern about the cost associated with a conditional use permitting process, specifically for places of worship. Other members stated that the neighboring property owners should have a chance to voice their concerns about religious uses or other places of assembly in their neighborhood. Discussion also included whether the CUP process should apply to in-home daycares. Several members expressed that their support of the requirement for a CUP for assembly occupancies in residential districts was also tied to the fee waiver since this is intended to be an interim step during the UDO drafting process.

The Planning Board voted 8-2 to recommend the following - Require a conditional use permitting process for assembly occupancies in residential areas as referenced in the table of permitted uses, Section 10.13, as presented during the public hearing; waive the conditional use permit application fee for these uses in residential areas; and evaluate performance standards during the unified development ordinance drafting process. The Board also voted 8-2 to recommend approval of 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."

Following these votes the Planning Board discussed the proposed amendment to Section 8.8, Height Limit Exceptions, and could not reach a consensus. By a vote of 7-3 the Board postponed discussion to their next meeting to allow staff time collect additional information from adjoining jurisdictions to provide in the next agenda packet.

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

**Recommendation:**

The Planning Board, by a vote of 8-2, 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 8-2, recommends the following:

1. adoption of an ordinance amending the Zoning Ordinance approving the request by the Chatham County Board of Commissioners to amend the Chatham County Zoning Ordinance as described in “Attachment #1”,
2. waive the conditional use permit application fee for these uses, and
3. evaluate performance standards during the unified development ordinance drafting process.