

Planning and Development Regulation

David Owens
Clerks Institute
Feb. 14, 2019



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www.sog.unc.edu

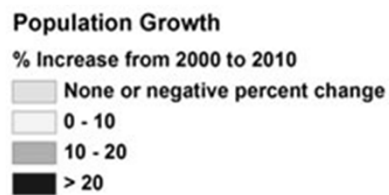
Session Coverage

- Context: Growth and change in NC
- How is planning done in NC?
- How is planning and development regulation jurisdiction allocated between cities and counties?
- Zoning and subdivision regulation basics

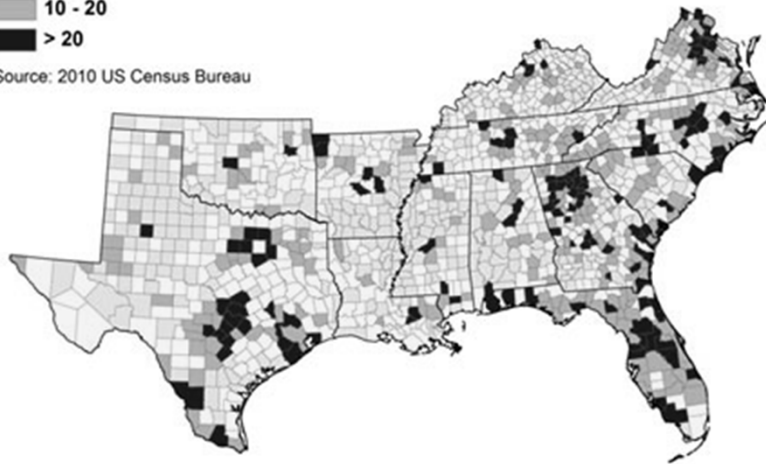


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SOME CONTEXT



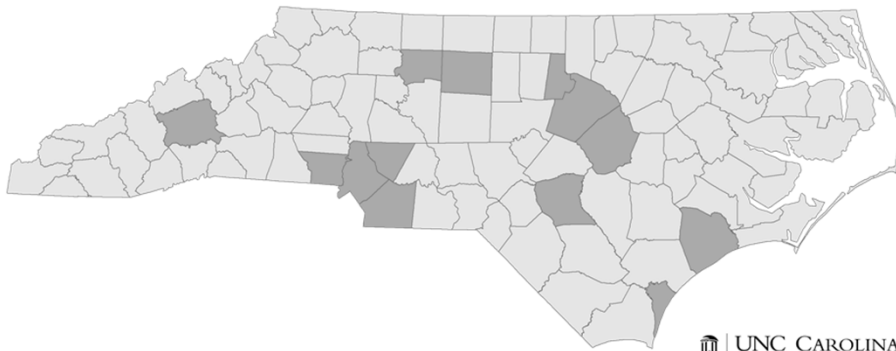
Source: 2010 US Census Bureau



N.C. Population

1900	1.9 million
1950	4.1 million
2000	8.0 million
2017	10.25 million

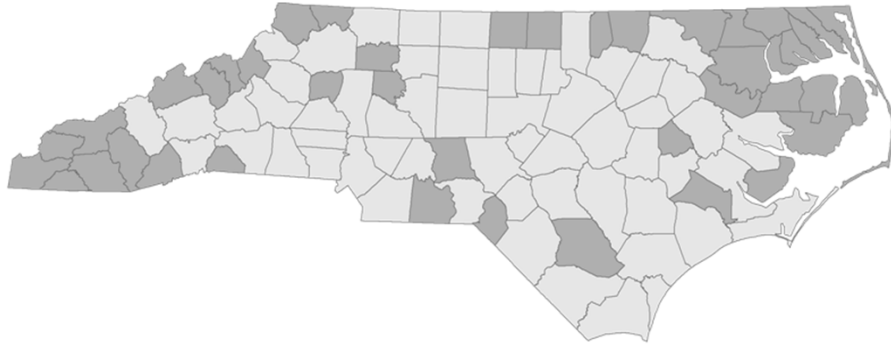
13 Counties with Half of NC Population, 2013



Source: U.S. Census Bureau Population Estimates

UNC CAROLINA
POPULATION
CENTER
DEMOGRAPHY

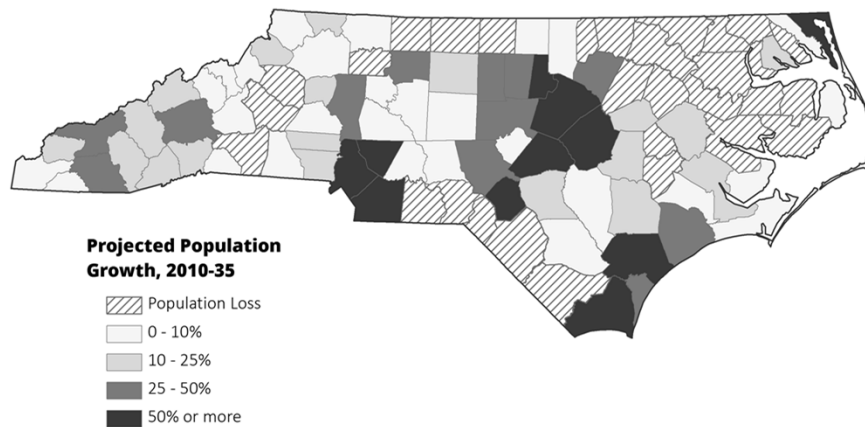
42 Counties with 10% of NC Population, 2013



Source: U.S. Census Bureau Population Estimates

UNC CAROLINA
POPULATION
CENTER DEMOGRAPHY

Population growth is uneven across North Carolina Projected population growth, 2010-2035



Data Source: NC OSBM

N.C. Hispanic Population

1990	1.2%
2000	4.7%
2016	9.2%

**How many North Carolinians
are not NC natives?**

5% in 1910
16% in 1960
43% in 2015

Source: 2015 American Community Survey



WHY PLAN?

Two Critical Questions

1. What role should local government play in planning?
2. How does government decide what is the “right” direction for these issues?



Would a new big-box center on the edge of town be good for your city?

Would a new 600 lot subdivision on the edge of town be a good thing for the town?

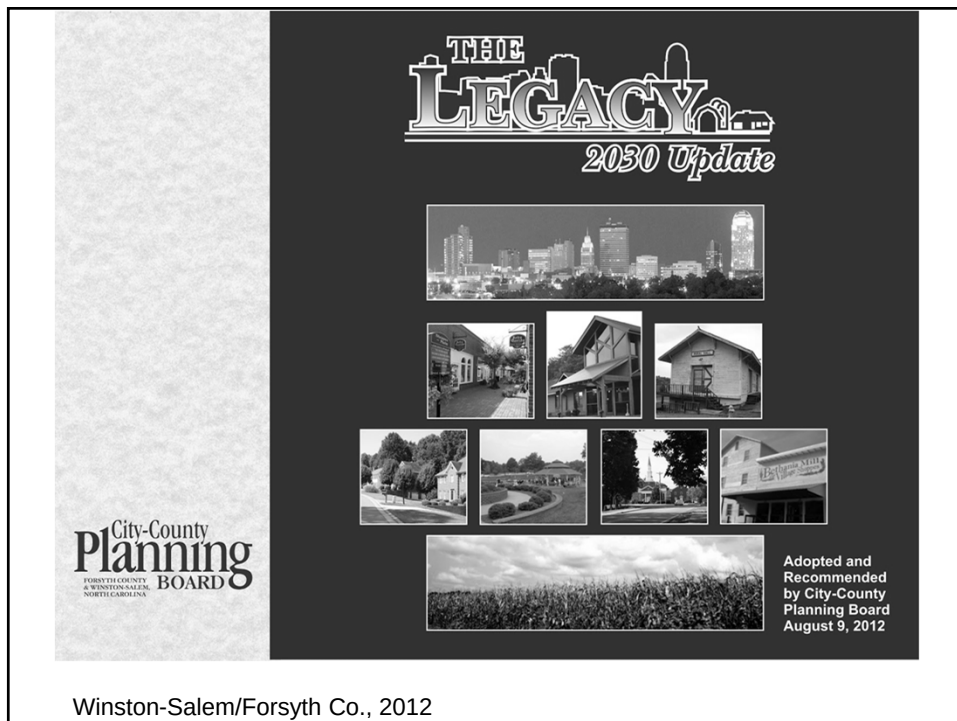
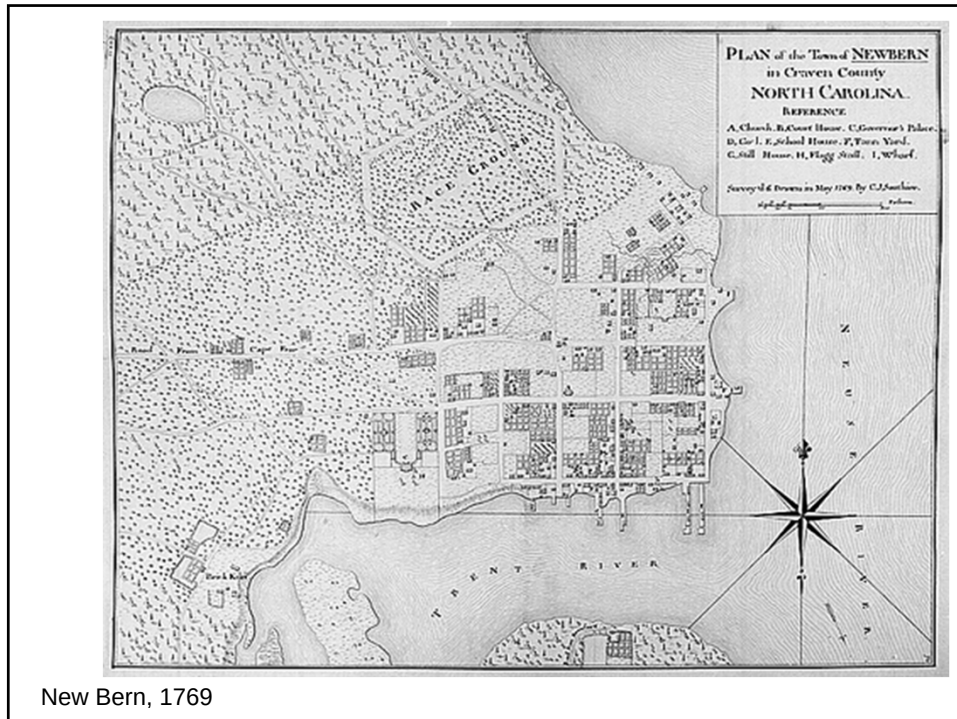


Why Plan?

- Technical analysis of conditions
- Establish a vision for the community
- Public engagement in policy-making
- Guide efficient public investment
- Qualify for certain funding and meet legal mandates

Planning in NC

- No statewide planning mandate for local planning
- Plans required in coastal area (CAMA)
- Do mandate consideration of plans when zoning amendments are considered



Types of Plans

- Comprehensive Plan
- Specialized/Functional Plans
- Strategic Plans

COMPREHENSIVE PLAN

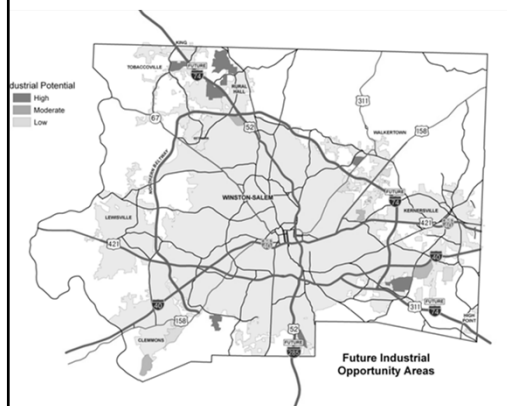
- Traditional Focus of Local Planning
- Integrated View of Issues
 - Land use, transportation, housing, recreation
- Long Range View -- 10 to 20 years common

Land Use and Growth

- Community Character
- Future Land Uses
- Housing and Neighborhoods



Economic Development

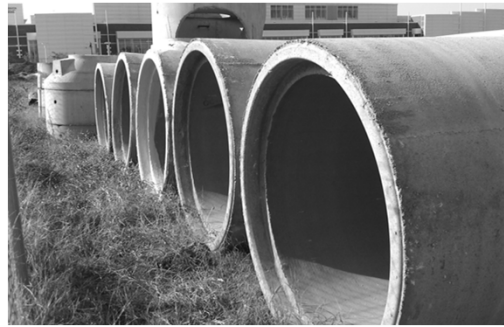


- Workforce and Employment
- Public Incentives and Investment
- Development Sites



Public Investment

- Transportation
- Water and Sewer
- Energy
- Schools
- Parks
- Public Safety



Natural and Heritage Resources

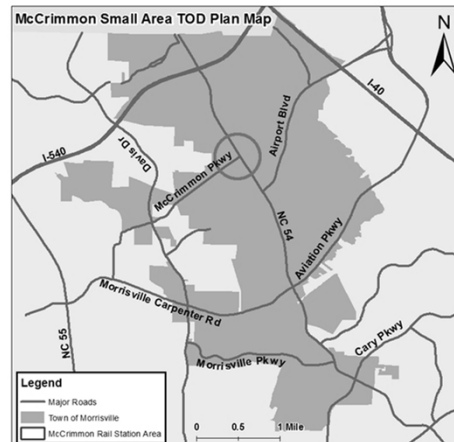


- Agricultural Preservation
- Conservation Lands
- Water Resources
- Parks and Recreation
- Flood Zones/ Hazard Mitigation
- Historic Preservation



Specialized Plans

- Neighborhood Plans
- Small Area Plans
- Corridor Plans
- Historic District Plans
- Watershed Plans

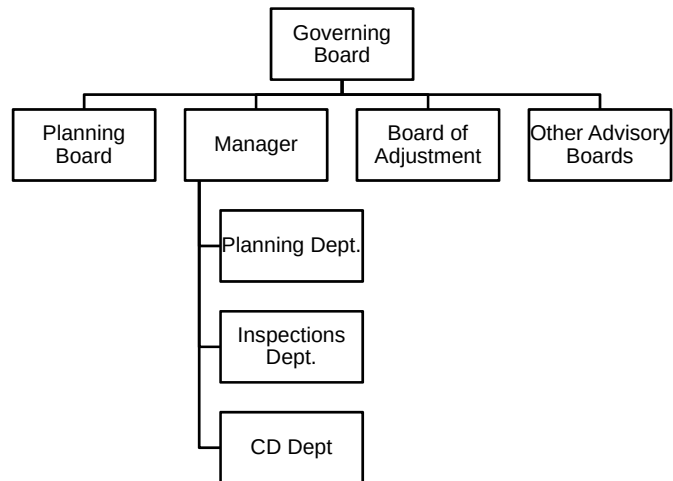


Functional Plans

- Transportation and thoroughfare plans
- Public utility plans – water and sewer
- Recreation and open space plans
- Emergency services
- Public facility plans
- Capital improvement plans and budgets



Typical NC Organization for Planning



JURISDICTION FOR PLANNING AND DEVELOPMENT REGULATION

General Rule

- Cities have exclusive jurisdiction inside city limits
- Counties have jurisdiction in unincorporated areas
- City and county jurisdiction do not overlap

Variations in the General Rule

- Cities and counties can mutually agree to alternative (such as city asking county to act inside city)
- Areas immediately adjacent to, but outside, city limits can be subject to city jurisdiction (ETJ)

EXTRATERRITORIAL JURISDICTION

<u>Population</u>	<u>Maximum Area</u>
Up to 10,000	1 mile
10,000 to 25,000	2 miles
Over 25,000	3 miles

Powers Available to City in ETJ

- Zoning
- Subdivision regs
- Enforcement of State Building Code
- Community development projects
- Acquisition of open space
- Minimum housing code
- Soil erosion and sedimentation control ordinance
- Floodway regulation
- Historic preservation programs

But **NOT** general police power ordinances

ETJ PROCESS

- Newspaper and Mailed Notice of Hearing
- Public Hearing on Boundary Ordinance
- County approval if:
 - a. Beyond one mile
 - b. In first mile if county exercising:
 - Zoning
 - Subdivision
 - Building code
- File with Clerk and Register of Deeds on adoption
- Appoint ETJ members of Planning Board and Board of Adjustment

DEVELOPMENT REGULATION

Typical Ordinances

Principally Used:

- Zoning – land uses, development standards
- Subdivision – lot layout, infrastructure
- Building code – state mandated, construction standards
- Housing code – habitability
- Often merge into Unified Development Ordinance (UDO)

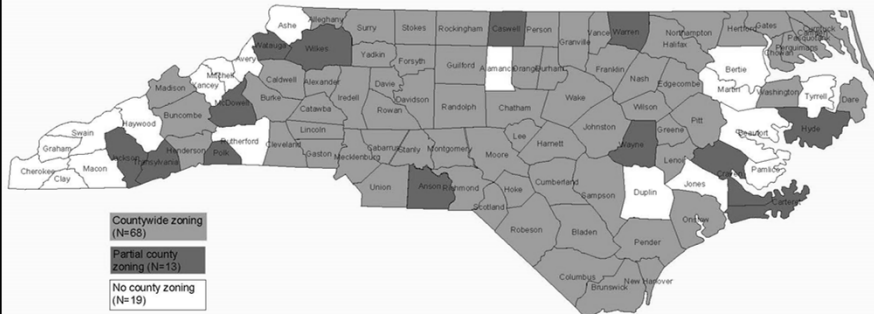
ZONING REGULATION

Municipal Zoning

Municipality Population	% with Zoning
1 - 999	71%
1,000 - 4,999	96%
5,000 – 9,999	100%
10,000 or more	100%

2012 SOG Survey
% of responding jurisdictions

County Zoning



School of Government
The University of North Carolina at Chapel Hill
June 2017



Zoning can be controversial

- Impact on individual private property rights
- Concern that inappropriate or unduly burdensome regulation could be adopted
- Concern about adding time and cost to development process
- Concern about government intrusion on private decisions

Why is Zoning So Widely Used?

Public's perspective

- Limit land use incompatibility
- Protect property values
- Stability and predictability in real estate market

Why is Zoning So Widely Used?

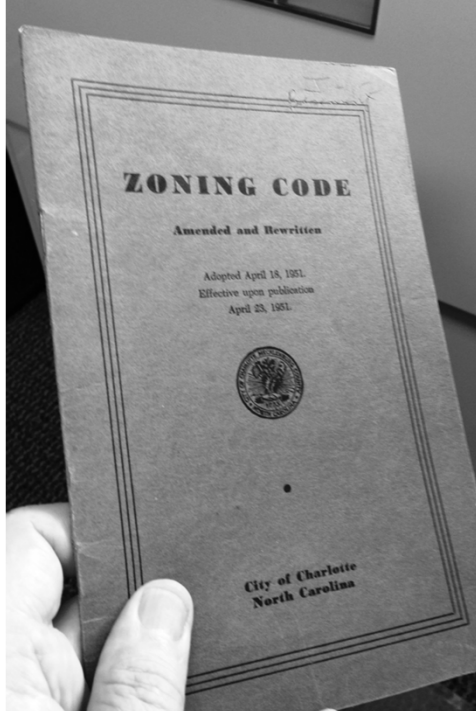
Governmental perspective

- Efficient provision of infrastructure
- Public health and safety issues
- Environmental concerns
- Preserve character of community

BASIC STRUCTURE OF ZONING ORDINANCES (in a nutshell)

Charlotte
Zoning Code
1951

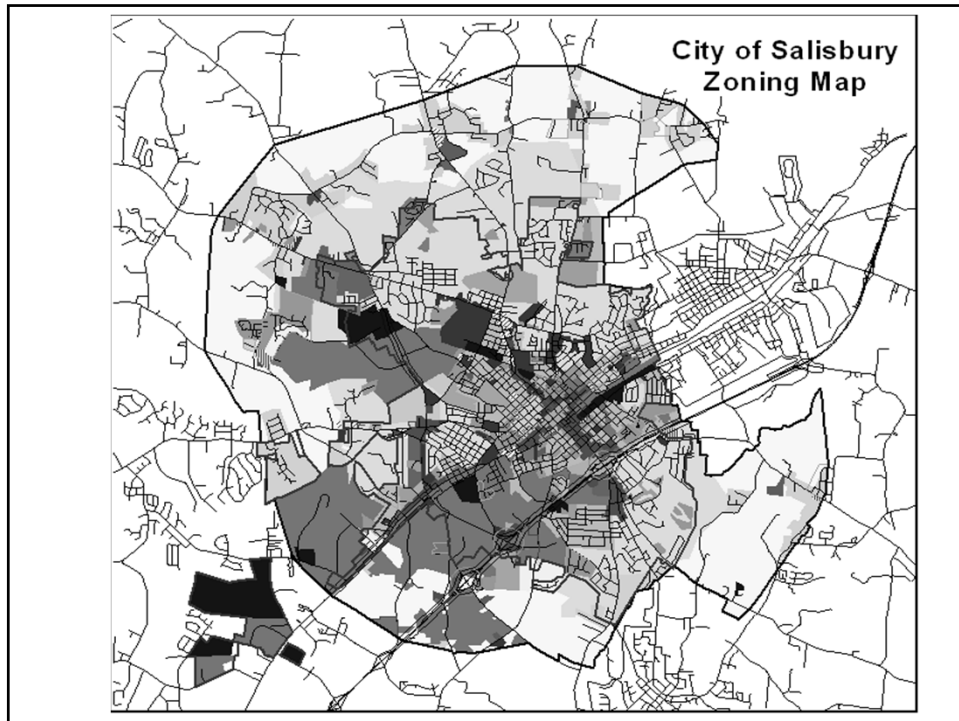
14 pages
6 districts



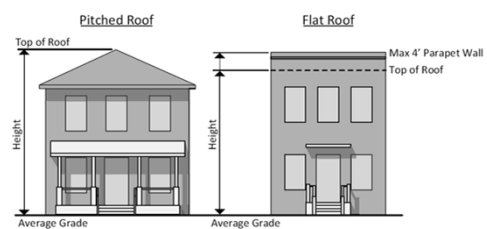
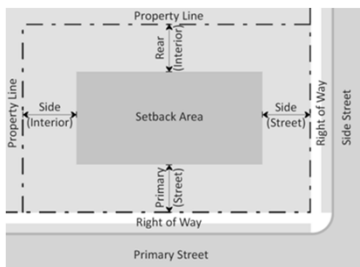
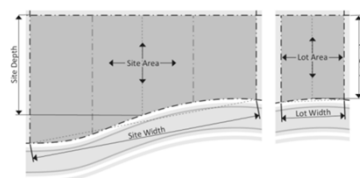
Zoning Ordinances

Zoning ordinances have
two parts:

- Text to define standards
and procedures
- Map to define location of
zoning districts



Typical Zoning Requirements



Raleigh Unified Dev. Ordinance, Adopted Feb. 18, 2013

Typical Zoning Requirements

- Zoning districts are critical: Different land uses allowed in each
- Dimensional standards vary by district
 - Lot size; Front, rear, and side yard setbacks; Height limits
- Other typical regulatory provisions
 - Parking
 - Landscaping
 - Signs

Query

In a predominately residential neighborhood, what other land uses should be allowed?

Use Regulation

YES -- Permitted Uses

NO -- Prohibited Uses

MAYBE -- Conditional Use,
Special Use,
Special Exception

Types of Zoning Decisions

<u>Type</u>	<u>Example</u>
Legislative	Rezoning
Quasi-judicial	Variance/SUP
Administrative	Notice of Violation
Advisory	Recommendation

Types of Zoning Districts

Conventional districts
Overlay districts
Floating districts
Conditional use and conditional districts

Amendments

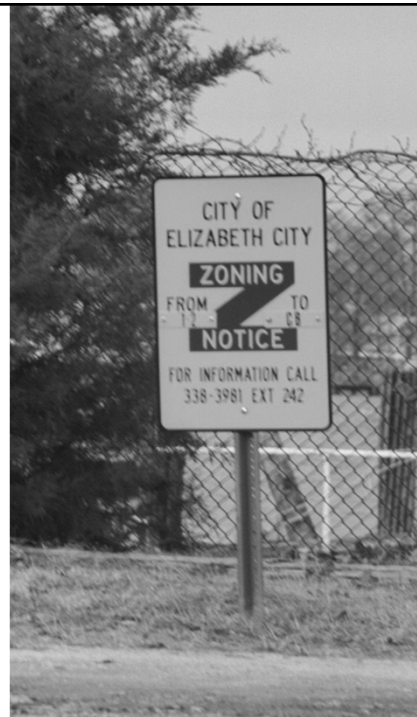
- Planning Board Review
- Public Notice and Hearing
- Consistency Statement

Amendments: Planning Board Review

- Actions must be referred to planning board
- 30 days for review
- Written recommendation to advise and comment on consistency with applicable plans
- Recommendation is not binding on governing board

Amendments: Public Notice and Hearing

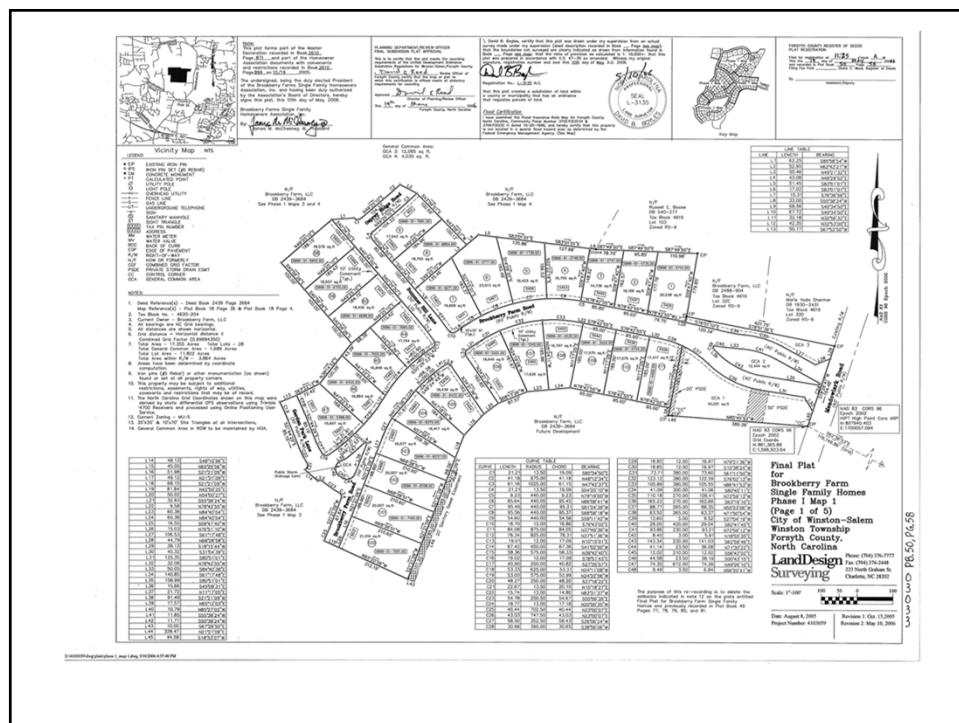
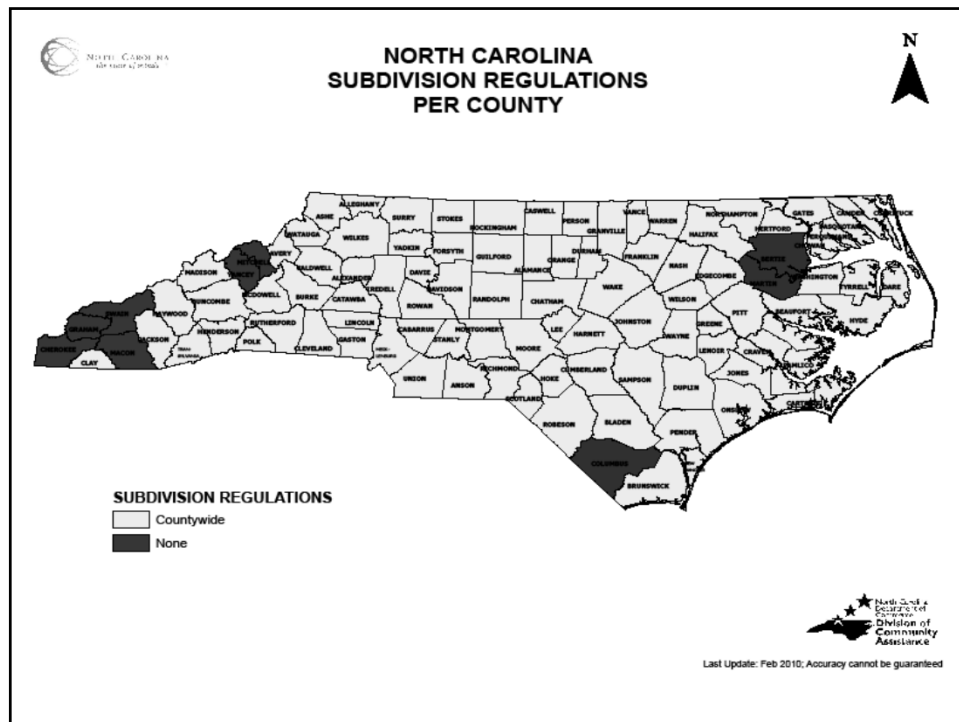
- Standard
 - Newspaper, two weeks, 10-25 days prior
- Map Amend (Rezoning)
 - Mailed to affected and abutting owners
 - Posted on the site



Amendments: Consistency Statement

- describe whether action is consistent with an adopted comprehensive plan and any other officially adopted plan
- briefly explain why the board considers the action taken to be reasonable and in the public interest.
- Statement is not subject to judicial review.

QUICK OVERVIEW OF SUBDIVISION REGULATION



Subdivision Regulations

Coverage -- Divisions for sale or development, present or future

Exemptions – 10 acre lots, 2 acres into 3 or less lots, recombinations

Typical requirements – Design/layout of lots, infrastructure

Sketch Plan



Steps

Preliminary Plat



Final Plat



As condition of approval, can developer be required to build streets and utility lines and donate those to the city?

Exactions

1. Must be reasonably related to the impacts generated
2. Can be no more than amount “roughly proportional” to impacts
3. Must have statutory authority

BONUS MATERIALS

(UNLIKELY TO COVER IN CLASS)

Statutory Limitations

Regulating Design

- May not regulate certain design aspects
- May regulate height, mass, building location, etc.
- Scope of Limitation
 - Applies to buildings subject to One- and Two-Family Res. Bldg Code
 - Does not apply to commercial or multi-family
 - Exceptions for historic districts and conditional zoning



Statutory Limits on Discretion --

Manufactured housing

- Can not totally exclude or regulate construction standards
- Can regulate location, dimension, and appearance
- Distinguish “manufactured” from “modular”



Family Care Homes

State law: 6 or fewer persons with a disability, must treat same as single family residence

Federal law: “reasonable accommodation” required

Telecommunication Towers

Can not totally exclude

Can not regulate on health basis

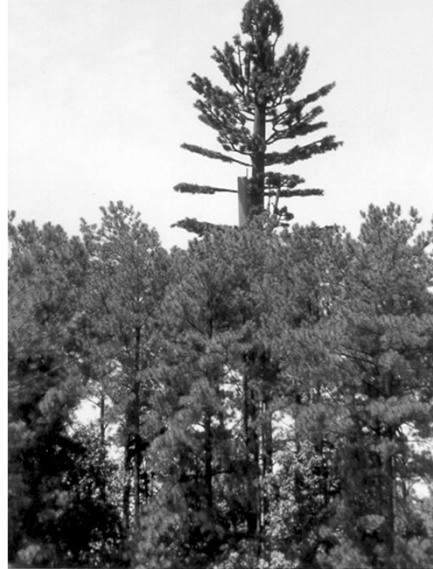
Decisions must be in reasonable time and in writing



Telecommunication Towers

Can limit siting,
height, fencing,
co-location, stealth
technology

Must approve
minor additions,
colocations



Statutory Limits on Discretion

Alcohol sales

- State ABC permits overrule zoning

Agricultural uses

- Bona fide farm uses exempt from county zoning and city zoning in ETJ

Constitutional Limitations

Adult Businesses



- May not totally prohibit
- May regulate secondary impacts
 - Separation requirements,
 - Limits on advertising, noise, operations
 - Licensing requirements

Regulating Signs



- Need strong rationale for regulation
- May regulate size, type, lighting, and other characteristics
- May not regulate content of sign (very limited exceptions)

Time, Place, and Manner Restrictions

Typical limits:

- Size – height, sq. footage
- Location – by zoning district, setbacks
- Lighting – no flashing, limits on illumination
- Ban on portable signs, banners, temporary signs

