MUNICIPAL LAW NOTES

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Welcome to 2025, municipal practitioners!

North Carolina's appellate courts ushered in the new year with a slew of opinions addressing both emerging topics in open government and old debates about quasi-judicial hearings. Very exciting. The League would like to take this opportunity to remind our audience of the Judicial Advocacy Program available to all of our members—including their appointed counsel while representing the town. When the League receives a request from a member, we analyze the case for potential participation as amicus curiae. We look for an opportunity to advocate for a statewide, pro-municipal position unique from those arguments asserted by the party in interest.

But wait, there is more! Even if the League does not ultimately join as an amicus, our legal team can assist in other ways. We are happy to provide a second set of eyes on a brief, or to brainstorm on issues of appellate strategy. Your case may present facts or issues specific to just your town, but do not hesitate to reach out for additional feedback on your efforts to obtain relief for your client from our appellate courts. As always, we look forward to hearing from you.

Sincerely,

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Open Meetings

Intermittent emails between council members over the course of several weeks does not constitute simultaneous communication as contemplated by open meetings law.

NC Citizens for Transparent Gov't, Inc. v. Village of Pinehurst, 910 S.E.2d 288 (N.C. Ct. App. 2024).

Educating newly-elected local government leaders on the fundamentals of municipal law offers a front-row seat to an inspiring sequence of discovery and application of the rules that divide their once-private lives from their conduct as part of their town's board. At the Essentials of Municipal Government course offered cooperatively by the League and UNC School of Government, council members learn about a new law, process the words in the context of their work on a governing board, and apply what they have just learned to real situations they may encounter. It often helps to illustrate the application of, say, the open meetings law by posing fact patterns that arise on the fringe of municipal practice. For instance, take a hypothetical social media post made by a councilmember in opposition to an upcoming policy vote. The post almost immediately garners heated comments from an effective majority of the rest of the council in rapid succession. Just explaining the facts can draw a chuckle from the crowd; they've encountered the situation before. But then real questions flow: does the original poster need to open their private account to public comment? It depends. Is the social media post a public record that the council member would need to provide in a nonproprietary format upon request? It depends. Does the rapid introduction of comments from a majority of the council on a matter of public concern constitute a "simultaneous communication" for the purpose of "transacting public business" as contemplated by N.C.G.S. § 143-318.10(d)? Again, it depends. Those lawyerly "it depends" answers could grow tiresome for participants if not bolstered by guidance from our courts. The instant case provides just that guidance.

The Village of Pinehurst's Council has a structure somewhat unique within North Carolina: four council members and a mayor, all elected at large, with the mayor voting on all matters. In the Fall of 2021, the Council entered closed session during a special meeting to discuss the unrelated behavior of two council members that allegedly violated the Village's ethics policy. One council member was accused of sending inflammatory emails to a local business owner, while the other was accused of inquiring about the village manager's job performance to one of the manager's direct reports. Between the closed session special meeting and a regular meeting held three weeks later, an email chain bounced between the village manager and its attorney, its mayor, and two council members. It started with an email from the attorney with background information on the alleged ethics violations and draft censure resolutions. Over the next few days, a few emails from each participant peppered their respective inboxes. The mayor, manager, and attorney discussed the rules and policies applicable to addressing ethics violations. The two council members each thanked the cohort for the information, and offered their thoughts on how the matters should be addressed at the next regular meeting. Once aware of the side conversation happening digitally at the rate of half a sentence an hour, one of the accused council members consulted Professor Frayda

Bluestein at the UNC School of Government who opined that members of a public body sending a few emails over a couple of days were likely not engaged in the simultaneous communication regulated by the open meetings law. The 12 October 2021 regular meeting was called to order, and the mayor brought up the separate allegations against the two other council members—just as had been suggested in the email chain days before. While the Council discussed the allegations at this regular meeting, the Council refrained from taking any formal action. Nor did the Council vote on the censure resolutions at the next regular meeting, where the matters seemed to resolve as far as the Council's consideration was concerned.

One of the accused council members lost his reelection bid that November. He formed a nonprofit, N.C. Citizens for Transparent Government, Inc., and sued Pinehurst in May of 2022. Among other claims, the lawsuit sought a declaration that both the closed session meeting and the ensuing email chain violated the open meetings statute. The Village filed a motion for judgment on the pleadings, arguing that the email chain provided by plaintiffs as a supporting exhibit for the complaint demonstrated that no simultaneous communication actually occurred. The trial court agreed and dismissed the entire suit. Plaintiffs appealed, and the Court of Appeals affirmed the trial court's dismissal in a case of first impression.

The veracity of the allegations is a bit beside the point. As is the fact that the Council entered closed session to have a "personnel discussion" allowed by N.C.G.S. § 143-318.11(a)(6), only to discuss the conduct of two of its own members. After all, the Council never took final action censuring the conduct of the council members, and the plaintiff here dismissed his claim concerning the closed session before a court reached the merits. The Court of Appeals instead dissects the suspect email chain and reveals a few insights into how that Court analyzes the inner workings of municipal bodies.

First, the panel places some emphasis on the fact that one of the three council members included in the email chain was the mayor. For instance, the opinion rejects plaintiff's characterization of the email thread as an "end-run around mandated public deliberation," instead painting the email chain as "a few members of the council, one of whom was also the mayor, consult[ing] with the Village Attorney and the Village Manager to ensure they were prepared" for the next meeting. *NC Citizens*, 910 S.E.2d at 292. The opinion uses this characterization, in combination with the fact that the Council never took action to censure plaintiff, to bolster its conclusion that the public body here never deliberated, voted, or transacted business as contemplated by the open meetings law. The Court recognizes the mayor true to form as the presiding officer over official meetings, lending credence to the view that the communiques here were for the purpose of organizing the procedure to be employed to address public business (the ethics allegations) at the next regular meeting, not hide the substance of the conversation from the public. This is independent of and in addition to the lack of simultaneity of communication cited by the Court earlier in the opinion. Now, granted, the Court of Appeals made clear that the communication here was not simultaneous and was not employed to circumvent the open meetings law, with a solid breakdown to explain how. But the panel went further, suggesting that the council members did not deliberate because no action was taken; this despite each participant stating their

positions on the ethics matters to their fellow majority members, and honing their thoughts through peer-to-peer feedback. This discussion is not integral to the Court's holdings discussed below, leaving room for an argument that a majority of the board did communicate about public business outside of the context of an open meeting, even if it was not simultaneous and thus subject to open meetings law. Future plaintiffs who allege that a board utilized email or a similar electronic communication in violation of the open meetings law may gain more traction with this argument if the messages are more numerous and frequent, for instance if a text or email chain took place with such intensity that it mimicked a slow but real-time conversation.

Second, in the Court of Appeals' calculation to determine whether a majority of a public body ever simultaneously communicated, exactly who communicates amongst the members of an email chain—and when—appears more relevant than the raw number of elected officials included as recipients of the email chain. The opinion notes that, notwithstanding three out of five council members exchanging emails amongst the chain, the majority of the emails were between the mayor, manager, and attorney. A majority of the board never really communicated in the first place, according to the Court of Appeals. And the opinion further shines a spotlight on one of the council members who responded to the original chain, concluding that her few emails over several days could not have constituted simultaneous communication. The panel considers this one council member's communications independent of the interloping emails from the council member's colleagues. So each individual council member's involvement in an digital conversation is viewed in isolation to some extent, which may allow greater freedom of communication between staff and council. Particularly if there is a pattern or usual practice regarding email communications between staff and the entire board, a reviewing court employing this opinion could be persuaded to find that even if all council members respond rather quickly to an email from the town manager, that would still not violate the open meetings law if the email chain does not take the form of a conversation.

We now have a solid understanding of how our appellate courts review email communications between a public body when searching for possible simultaneous communication in violation of the open meetings law. From the facts of this case, it is safe to say that email communications between even an entire town council would not violate open meetings law if there is a solid hour between replies. The Court still leaves room for a few landmines, though. For starters, the intent behind the communication still carries water for the Court of Appeals. It placed emphasis on the fact that the majority of the board were trying to get their procedural ducks in a row for the next regular meeting, where the substance of the matter would be discussed in the open. The Court also noted that the email chain originated as an informational dissemination by Pinehurst's attorney; a far cry from council members trying to slip consideration of an important issue under the public radar. In contrast, a council that exchanges a few emails over a couple of days with the intent of getting everyone's vote lined up on a matter of public concern could still run afoul of the open meetings law, even if the quantity, source, and timing of the emails mirrored the case at bar. Further, absent a thorough email policy respected by all council members, there is nothing preventing an email chain from devolving into simultaneous communication if a majority of the members reply in close tempo. The Court of Appeals reviewed cases from other states

which found that email generally differed from other modes of instantaneous messaging—but only if replies are far enough apart to make the forms of communication discernable. *NC Citizens*, 910 S.E.2d at 291–92. The safest bet: staff should send emails to council members in groups smaller than what is required for a quorum. In the alternative, consider a hub-and-spoke form of communication by utilizing the BCC function in the address line for council members on board-wide emails. That way, replies from council members return to staff as opposed to other council members, thus avoiding accusations of back-room communication altogether. Just make sure to inform the council members that all of their colleagues are fellow BCC addressees.

Zoning and Land Use

Supreme Court reinforces need for airtight specificity in development standards, defines boundaries of quasi-judicial review; punts on prickly preemption issue.

Schooldev E., LLC v. Town of Wake Forest, 909 S.E.2d 181 (N.C. 2024). The plaintiff submitted a subdivision plan and major site plan in preparation for constructing a charter school on a thirty-five-acre parcel situated in the middle of a larger, undeveloped tract. The setting is straight from a law school essay prompt: the subject property was abutted to the south by a paved road with a park and a planned residential development filling out the other side. On either flank were undeveloped remainders from the original, larger tract. To the north? A creek separating the school site from another single-family development. Plaintiff's applications for the subdivision and site plan approval first reached the Town's planning board, which held a quasi-judicial hearing where only the plaintiff put on evidence. The plaintiff's site plan showed a ten-foot-wide multi-use path running mostly parallel with the abutting road, connecting the site's pedestrian and bicycle traffic with the park and planned development situated across the street. This multi-use path along the road, the plaintiff argued, addressed two provisions of the Town's UDO aimed at promoting connectivity with adjoining properties. One development standard required an applicant to demonstrate safe pedestrian accessibility which "may include the construction of additional off-premises sidewalks, multi-use trails/paths, or greenways to connect to existing networks." A second development standard applicable to schools required vehicular and pedestrian connectivity "to surrounding residential areas," which could be achieved through a multi-use trail if vehicular connection proved impractical.

The site plan showed no connectivity with the existing neighborhood to the north—vehicular or otherwise. And looking at the site plan, a northern connection wouldn't make much sense. A path or sidewalk would dead end into a USGS blue line stream and a spine of tracts owned by either the county's school board or private homeowners with established residences. For the iMaps nerds out there, the Wake County parcel identification number is 1841392412 if you're inclined to get a bird's-eye view of the property.

No one submitted evidence in opposition to plaintiff's plans, and Town staff went so far as to explain to the planning board that N.C.G.S. § 160A-307.1 prohibited the Town from requiring any other street improvements other than those required for safe ingress and egress from a school property. Still, the planning board voted to recommend denial of the plaintiff's applications. The Town's Board of Commissioners took up the matter at a regular meeting a few weeks later. Over an admonition from the Town's attorney, the Commissioners considered issues unrelated to the quasi-judicial hearing—including impacts to a nearby public elementary school—before unanimously voting to deny approval of the site plan. The Commissioner who moved to deny the site plan also lamented the lack of connectivity to the adjacent neighborhood to the north. Turning to the Plaintiff's subdivision plan, the Board again cited the lack of pedestrian and bicycle connectivity to the surrounding neighborhoods in support of its decision to deny approval. The plaintiff appealed the denials to Wake County Superior Court, which upheld the Town's denials of the subdivision application and site plan.

The Court of Appeals likewise affirmed the Town's decisions. A majority opinion held first that the trial court applied the correct de novo standard of review to the legal inquiry as to whether N.C.G.S. § 160A-307.1 preempted the Town's development standards requiring construction of sidewalks. The trial court found that the statute was not a bar to the Town's connectivity standards here, as it addressed "street improvements," not sidewalks. The Court of Appeals agreed. When the General Assembly means to address a municipality's power over sidewalks, it specifically refers to sidewalks apart from streets. *See* N.C.G.S. §§ 160A-189, -217, -296, & - 300. Because § 160A-307.1 referred only to street improvements, and not street and sidewalk improvements, that statute did not preempt the Town's development standards requiring additional sidewalks and multiuse paths here. The lone statute asserted by a dissenting judge and the plaintiffs, N.C.G.S. § 136-18(29a), defines "improvements" to include both streets and sidewalks. But such a definition which, by its own terms applies only "as used in this [§ 136-18(29a)]," pales in comparison to the more specific statutes cited by the majority. This is important because, as discussed below, the North Carolina Supreme Court did not address the preemption issue that split the Court of Appeals panel. But the Court of Appeals noted that the trial court applied the incorrect whole record review standard to the second question: had petitioner met its burden of production before the planning board? The trial court should have applied the *de novo* standard, instructed the Court, as this was a threshold legal inquiry as to whether petitioner had established a *prima facie* case entitling them to site plan approval. While the trial court had applied the incorrect standard, the Court of Appeals majority still affirmed the trial court's conclusion. As the developer presented evidence of pedestrian connectivity to only one of several surrounding residential areas, the Town asserted a proper basis under its UDO for denying the subdivision request and site plan.

The North Carolina Supreme Court reversed the Court of Appeals and ordered the Town to approve the developer's subdivision application and site plan. To the majority, the Town's development standards were unclear. As for the first standard, the Town essentially admitted that it was unclear by conceding that it did not have the authority to require a developer to construct pedestrian infrastructure on property it did not own. Thus, reference to off-premises sidewalks and paths had no clear meaning upon which a property owner could rely. Turning to the second development standard requiring

"connectivity to surrounding residential areas," did *surrounding* mean all surrounding parcels, just some, or just one? The majority starts to explore the question, noting that definitions of words like *encompass* include "all" or "entirely" as a qualification accompanying "surround," to wit, encompass was defined as "to surround entirely." This would suggest that *surrounding* does not always imply all things surrounding the subject. Then, a source of slight confusion:

- The opinion asserts the definition of *encompass* as evidence that a development standard requiring connectivity to surrounding residential areas should clarify what it means to *surround*, and that the lack of qualifying language in the Town's UDO rendered the development standard unclear.
- But then the majority cites Merriam-Webster's definition of *surround*, noting that it means "to enclose on all sides." The opinion reasons that this definition also supports the notion that the Town should have qualified whether *surrounding* means all or just some of the surrounding residential areas.
- But didn't the opinion just state that the definition of surround includes reference to all sides of a subject? Does that not address any notions of ambiguity as to whether the development standard required connectivity to all surrounding residential areas?

Nevertheless, the majority held that the development standard was ambiguous. Relying on this state's long history of resolving land use regulation ambiguities "in favor of the free use of property," *Yancey v. Heafner*, 268 N.C. 263, 266 (1966), the majority held that the single connection of the multi-use path to the park and neighborhood to the south of the subject property satisfied any ambiguous connectivity requirement under the UDO.

Practitioners can take solace in Justice Allen's recognition that the Town's attorney gave advice which may have kept the Town out of court entirely, even if all of that advice was not ultimately endorsed by the appellate courts. The attorney instructed the Board of Commissioners that they should conduct their own *de novo* comparison of requirements of the UDO with the evidence presented by the developer, and the Board seemed to comply. The Town's attorney further advised the Board of Commissioners that it could only consider evidence produced at the planning board hearing; here the Board faltered, considering matters outside of those confines. And finally, the Town's attorney opined that N.C.G.S. § 160A-307.1 preempted the section of the UDO that served as the Board's reason for rejecting the developer's applications here. Even though the trial court and Court of Appeals disagreed with that advice, as reasonable minds may differ, following it may have resulted in a less litigious outcome. The developer would have received their plan approval, and the Board of Commissioners would have enjoyed a legal basis to approve the development above the Board's extra-evidentiary desire for a contrary result.

Readers would also note that the Supreme Court skipped right to the developer's third argument: the developer had presented sufficient evidence of compliance with the UDO to remove any basis for their application's denial. The Supreme Court left the Court of Appeals' holding concerning any preemption implicated by N.C.G.S. § 160A-

307.1 on the proverbial cutting room floor. And Judge Arrowood joined Judge Carpenter in the majority opinion, indicating that practitioners may find consensus at the Court of Appeals across the ideological spectrum for a renewed argument that § 160A-307.1 does not preempt a town from requiring pedestrian path improvements on parcels slated for school development. Putting the preemption issue aside though, the Supreme Court's opinion demands a rolling review of UDO development standards to ensure they are specific enough to survive a challenge like the case at bar. If a certain mass of pedestrian connectivity within its jurisdiction is desired by your client, the UDO should specify a quantifiable target and how a property owner can get there. Standards which purport to satisfy a goal without setting forth metrics for achieving that goal actually hamstring your client's ability to effectively process subdivision and zoning approvals, as our appellate courts will resolve any doubt as to whether an application satisfies those standards in favor of the applicant.

Standing

Town has standing to sue county over county's legislative rezoning decision impacting adjacent water supply.

Gardner v. Richmond Cnty., No. COA21-600-2, 2025 N.C. App. LEXIS 71*, 2025 WL 540932 (2025). A railroad company submitted a rezoning application to Richmond County for a 167-acre parcel located more than a mile from the corporate limits of both the Town of Dobbins Heights and City of Hamlet. The parcel, however, was situated very close to the main water supply of both municipalities, and the proposed use for the site—cooking chemical-laden railroad ties into charcoal—was sure to poison the well. The county's planning board unanimously recommended approval of the rezoning application to change the parcel from residential and agricultural to heavy industrial, a zone which would allow for the "biochar facility." Nearby residents submitted public comments requesting that the County Board of Commissioners reject the rezoning application, citing the troves of carcinogens that would be released by the facility adjacent to their drinking water source. The public hearing was well attended with the railroad company and local economic development association supporting the application against a coalition of residents, churches, and environmental groups. It was all for naught for the residents. The Board voted 4-2 to approve the rezoning.

Several property owners near the proposed biochar facility joined forces with Dobbins Heights and Hamlet to file a declaratory judgment action seeking to set aside the rezoning decision, alleging a number of defects in the County's rezoning procedure. Chief among those concerns were an alleged dearth of consistency statement required by the now-defunct N.C.G.S. § 153A-341(b) and a failure by the Board to consider the impact of all permissible uses allowed by the heavy industrial zone. Arguments from both sides quickly zeroed in on the municipalities' standing to challenge the rezoning. The County asserted that the municipalities lacked a "personal and legal interest" that was "directly and adversely affected" by the rezoning, and that the complaint failed to

establish any special damages apart from those suffered by the general public. These showings, according to the County, were required for a plaintiff to challenge a legislative rezoning under the Declaratory Judgment Act and *Taylor v. City of Raleigh*, 290 N.C. 608 (1976). At a hearing on the County's motion to dismiss, the trial court found that the consistency statement adopted by the County satisfied the strictures of § 153A-341(b). The plaintiffs' second claim concerning whether the Board of Commissioners properly considered all allowed uses when changing the parcel's zoning survived the County's Rule 12(b)(6) challenge, however. Finally, the trial court addressed the County's 12(b)(1) motion attempting to kick the municipalities out of court on the grounds that they lacked standing to bring the suit. Dobbins Heights was found to lack standing and their participation in the case was dismissed, while Hamlet was allowed to continue. Although the trial court did not provide a reasoning for dismissing Dobbins Heights' complaint while allowing Hamlet's to survive, it should be noted that Hamlet was the owner of the water system installed in the creek near the proposed biochar facility; the system which served the residents of both municipalities.

Dobbins Heights appealed the trial court's order dismissing the town as a party, and the Court of Appeals initially kicked the case back down on grounds that the town's appeal was interlocutory. The North Carolina Supreme Court said "not so fast" and reversed the Court of Appeals' dismissal, ordering the intermediate court to review whether Dobbins Heights had sufficiently established standing in the complaint. On remand, the Court of Appeals held that the town's assertions in the complaint established standing under the Declaratory Judgment Act. Dobbins Heights asserted that a rezoning of the property from pastoral, low-density residential to a wholly different use category would demonstrably burden the air quality, water quality, and road network of the town. Especially when, after reading the Court of Appeals describe a biochar plant, one would expect the proposed use to include opening a gaseous fissure to the underworld a few hundred meters from the lake everyone drinks from. But I digress.

Taylor requires that a challenger to a legislative rezoning show that the rezoning would have a "direct and adverse" impact on the challenger's "personal and legal right" in order to establish standing. 290 N.C. at 620. The town did so here, according to the Court of Appeals, but arriving at that conclusion requires zooming out a bit. First, the Court of Appeals noted that the Supreme Court explored statutorily-endowed standing in *Committee to Elect Dan Forest v. Employees Political Action Committee*, 376 N.C. 558 (2021). There, the Supreme Court recognized that the Legislature can create private causes of action which require a plaintiff to show only that (1) a statute conferred a cause of action on the plaintiff, and that (2) the plaintiff satisfied the statutory requirements to bring a claim. In this way, "*Committee to Elect Dan Forest* does not abrogate *Taylor*, instead, it lays out a broader framework within which *Taylor* fits," opined the Court of Appeals. 2025 N.C. App. LEXIS 71, at *14. The Town of Dobbins Heights established statutory standing under the Declaratory Judgment Act by pleading the ways that the town was negatively affected by the County's rezoning ordinance. When a plaintiff's legal rights are affected by a rezoning ordinance, standing to challenge a legislative zoning under the Declaratory Judgment Act—a North Carolina state law—does not require the "injury in fact" often found in federal standing discussions. *Comm. to Elect Dan Forest*, 376 N.C. at 608.

Nor is the challenger of a legislative rezoning required to show special damages. Pulling from its succinct discussion of special damages in *Village Creek Property Owners' Association Inc. v. Town of Edenton*, 135 N.C. App. 482, 485–86 (1999), the Court of Appeals held that the DJA does not require a showing of special damages, and the lone case from that court which imposed a special damages threshold utilized a quasi-judicial case as the basis for its decision. As *Village Creek* and now this opinion make clear, "challenges to quasi-judicial zoning decisions require a pleading of special damages, but challenges to legislative zoning decisions do not." 2025 N.C. App. LEXIS 71, at *20. The Court of Appeals reversed the trial court's order dismissing Dobbins Heights from the suit and remanded for the case to continue with all plaintiffs on board.

The municipalities carried the day in this instance, but it is easy to see how not requiring a plaintiff to set themselves apart from the general public by pleading special damages is a double-edged sword for municipal clients. Without some unique injury requirement to gatekeep the legislative zoning arena, there will always be a route for any property owner to at least slow down a legislative rezoning by asserting any one of the commonplace drawbacks of upzoning to establish standing: the propensity for more traffic, crime, pollution, or nuisance. Don't be discouraged though. The Declaratory Judgment Act is not a limitless fountain for opponents of a rezoning:

- Opponents cannot yield the broadsword of equitable relief before council has even taken action. *Angell v. Raleigh*, 267 N.C. 387, 391 (1966);
- Our appellate courts imbue great deference in a city council's legislative zoning decisions when the council engages in due circumspection of the whole body of uses allowed by the rezoning. *Musi v. Town of Shallotte*, 200 N.C. App. 379, 384–85 (2009);
- A plausible basis, as opposed to an airtight justification, is enough for your client to survive a substantive challenge to its legislative zoning decision. *Ashby v. Town of Cary*, 161 N.C. App. 499, 503–04 (2003);
- And estoppel and laches are available defenses to counter the more sophisticated challengers. *Franklin Rd. Properties v. City of Raleigh*, 94 N.C. App. 731, 734–35 (1989) (developer who received variance under regulation estopped from challenging other requirements under same regulation); *Taylor*, 290 N.C. at 622–24 (laches is available as a defense in challenges to rezoning, and appellate courts look unfavorably on ulterior motives for attacking legislative rezonings).

In closing, a note about *Taylor*. The North Carolina Supreme Court in that case discussed the "tenuous" standing of the plaintiffs not for its jurisdictional value but as an element of a larger laches discussion. The plaintiffs challenged a rezoning only after the city condemned a sewer easement over their property to service the neighborhood to be built on the rezoned acreage, among others—two years after the rezoning. While subsequent cases have cited the two-year delay in *Taylor* as support for finding that laches was applicable to even longer delays, like in *Abernathy v. Boone Bd. Of Adjustment*, 109 N.C. App. 459, 465 (1993), it is important to remember that the length of delay is not dispositive. Our appellate courts first determine whether a delay was unreasonable, and if so, whether the delay "prejudiced, disadvantaged, or injured" the party asserting laches. *Taylor*, 290 N.C. at 624. There may come a day where your client

needs to assert laches as a defense to quash a case independent of any legal maneuvering of the codefendant rezoning applicant. The *Taylor* Court cited the impacts of the delay to the developer in that case, which took the form of tens of thousands of dollars in site design work after the rezoning. But municipalities can suffer analogous negative impacts in the interim between a legislative decision and a plaintiff's decision to challenge. Rezoning can impact the value of land, which has a measurable impact on tax revenue if there is an interceding reevaluation. Your client's staff may make binding decisions about the allocation of enterprise resources shortly after your council approves a rezoning. Departmental budgets are prepared based on future needs, needs which may increase due to even the most controversial rezonings. Evidence of these impacts will develop during and after contentious rezonings. Just make sure those impacts are impacts felt by your client, not the original rezoning applicant who may find themselves on the same side of the "v." as your client. *McDowell v. Randolph County*, 186 N.C. App. 17, 21 (2007) ("Although the record indicates that [rezoning applicant] has invested substantial sums of money in reliance on [the county's] actions, [the county] has failed to argue and the evidence fails to demonstrate that [the county] itself has sustained any injury.").