

..TITLE

A request by the Chatham County Board of Commissioners to deny the rezoning of Parcel No. 61829, being 0.9 acres, Bear Creek Township, located on NC HWY 902, from R-1 Residential to IL-Light Industrial.

..ABSTRACT

Action Requested:

Vote on a request by the Chatham County Board of Commissioners to deny the rezoning of Parcel No. 61829, being 0.9 acres, Bear Creek Township, located on NC HWY 902, from R-1 Residential to IL-Light Industrial.

Introduction & Background:

After nearly two years of discussion and study, on August 15th, 2016, the Chatham County Board of Commissioners voted to zone the formerly unzoned portions of the county to R-1 and R-5 residential. The Comprehensive Plan specifically supports “rezonings for businesses uses or properties made non-conforming by the extension of zoning in 2016.” (Land Use Policy #7, Strategy 7.2). Consequently, prior to the adoption of county-wide zoning, the Chatham County Planning Department sent a business listing form to every property owner in the unzoned portion of the county. Nearly 13,000 forms were mailed. The business listing form asked property owners to list any non-residential use of their land, so the Planning Department could properly document any non-conforming uses and prepare for future rezonings. The Planning Department received over 1,000 forms. Approximately 300 forms described non-conforming businesses, while the remaining 700 listed either agricultural uses of the land (which were exempted from zoning regulations via the bona fide farm exemption) or otherwise permitted uses, such as a residence. Aerial images of these 300 businesses were captured, as well, in order to further establish non-conforming status.

Discussion & Analysis:

In addition to mailing and documenting business listing forms, Planning staff compiled tax and fire inspection records to determine if there were any other businesses in the formerly unzoned portions of the county. After combining tax and fire inspection records, along with the business listing forms, staff determined that 573 parcels in the formerly unzoned part of the county may contain non-conforming uses or businesses. In order to confirm that these non-conforming uses actually existed, staff performed site visits to each parcel, spoke with the property owners, and documented the current use of the property. After several months of visiting properties, further research by staff, and meeting with property owners, the following observations were made by staff:

- 252 parcels are eligible for rezoning to a non-residential zoning district
- 53 parcels are eligible for the issuance of a home occupation permit (HOP)
- 268 parcels are not eligible for rezoning or issuance of a home occupation permit

During the site visiting process, the interior of multiple parcels were inaccessible to staff due to “No Trespassing” signage, the presence of loose dogs, or physical barriers, such as locked gates, fences, or washed out roads. However, the tax data, aerial imagery, and some visual confirmation from the site visits allowed staff to recommend rezonings, issuance of HOPs, or maintenance of the status quo for these parcels.

Based on the observed use, staff determined which zoning classification would be most appropriate to consider to use for rezoning the property. Since many uses are permitted in multiple zoning classifications, staff recommended that the parcels be eligible for rezoning to the least intensive permitted zoning classifications possible. For example, if a use were allowed in both light and heavy industrial zoning district, then staff recommended that the parcel should be eligible to be rezoned to the light industrial classification. Furthermore, some uses are permitted in an R-1 or R-5 district with the issuance of Conditional Use Permit. It should be noted that many of the non-conforming uses on parcels eligible for rezoning do not occur across the entirety of the parcels. Many uses are limited to a single building or small portion of the parcel.

After the inventory of businesses was completed, the next step was to meet with property owners eligible for a rezoning to determine if they wish to rezone their property, and if so, how much of the property they would like to rezone. Planning staff contacted property owners and scheduled these meetings. Additionally, planning staff coordinated with representatives from the Chatham County Tax Department, as the issue of changes in tax value was likely to arise. In addition, on March 1st, at the direction of the Board of Commissioners, Planning staff also sent a letter to 35 property owners who have vacant buildings on their property in the formerly unzoned portion of the county, offering them the opportunity to request a rezoning to any zoning district. These vacant buildings had been previously identified by Planning staff during site visits in the summer of 2017.

Out of 252 properties that were identified as having a non-conforming use, 52 parcels (of which, this item contains 1 parcel) were requested by their owners to be rezoned, 24 parcels were requested to remain in their current zoning district, and 176 parcels’ owners did not respond to the letter regarding rezoning, yielding a response rate of 30%. Out of 51 Home Occupation permit applications sent out to properties that qualified for an HOP, 22 have been completed and returned to Planning staff. A GIS web application

<https://chathamncgis.maps.arcgis.com/apps/webappviewer/index.html?id=8a3a205b2dbd41459379332f46537df3>) has been created identifying the 52 properties, and the list of the 52 parcels requested to be rezoned has been included as an attachment. It should be noted that Planning staff will most likely receive more requests for eligible businesses to be rezoned in the future. Planning staff will follow up with the Board of Commissioners later this year to request a public hearing for those additional rezonings.

On April 16th, 2018, the Board of Commissioners held a Public Hearing on this item. Two neighboring property owners spoke out against rezoning the parcel. One neighbor alleged that Carolina Analytical Services, LLC, an independent agricultural analytical testing laboratory currently operating on the property, had previously dumped arsenic, mercury, and other heavy metals in a nearby ditch and an adjoining pond, leading to a massive fish kill. The neighbor alleges that other neighbors had to discontinue the use of their wells due to the contamination. A petition signed by nearby residents to oppose rezoning this parcel, along with an opposition letter from a neighbor, as well as other documentation, is included in your packet.

Following the public hearing, the Board of Commissioners forwarded the item to the Planning Board. On May 1st, the Planning Board heard this item. One neighbor spoke and reiterated the previous claims about environmental contamination. He also provided a letter from the NC Department of Environmental Quality showing that there had indeed been mercury and thallium contamination on the site, though the required Remedial Action Plan had properly addressed the contamination. The letter is included in your packet. Following a brief discussion, the Planning Board passed a consistency statement by a vote 9-0, stating that the rezoning is “not in compliance with Plan Chatham, it impairs the integrity of the neighborhood and is inconsistent with the spirit of the Board of Commissioner goals and health goals”. The Planning Board then voted 9-0 to recommend denial of the request for the rezoning.

How does this relate to the Comprehensive Plan:

Goal #4: Diversify the tax base and generate more high-quality, in-county jobs to reduce dependence on residential property taxes, create economic opportunity and reduce out-commuting. Specifically, Land Use Policy #7, Strategy 7.2 supports “rezonings for businesses uses or properties made non-conforming by the extension of zoning in 2016.”

Recommendation:

The Planning Board by a vote of 9-0 recommends adoption of a resolution approving the following consistency statement:

The request by the Chatham County Board of Commissioners to rezone Parcel No. 61829, being 0.9 acres, Bear Creek Township, located on NC HWY 902, from R-1 Residential to IL-Light Industrial is not in compliance with Plan Chatham, it impairs the integrity of the neighborhood and is inconsistent with the spirit of the Board of Commissioner goals and health goals.

The Planning Board by a vote of 9-0 recommends denial of an ordinance amending the Zoning Ordinance approving the request by the Chatham County Board of Commissioners to rezone Parcel No. 61829, being 0.9 acres, Bear Creek Township, located on NC HWY 902, from R-1 Residential to IL-Light Industrial.