

..TITLE

Vote on a request to deny a Legislative request to consider County-Initiated rezonings of 3 selected parcels in the formerly unzoned portion of Chatham County.

..ABSTRACT

Action Requested:

Vote on a request to deny a Legislative request to consider County-initiated rezonings of 3 selected parcels in the formerly unzoned portion of Chatham County.

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 Land Use 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 524 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, the following observations were made by staff:

- 204 parcels appear to be eligible for rezoning to a non-residential zoning district
- 48 parcels are eligible for the issuance of a home occupation permit (HOP)
- 272 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, 2018 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.

For the first round of business rezoning cases that were processed in early 2018, 52 parcels were requested by their owners to be rezoned, 20 parcels were requested to remain in their current zoning district, and 180 parcels' owners did not respond to the letter regarding rezoning. Out of 51 Home Occupation permit applications sent out to properties that qualified for an HOP, 17 have been completed and returned to Planning staff. Of the 52 properties considered for rezoning 49 were approved and 3 were denied (click the following link for more information about those rezoning cases - <http://www.chathamnc.org/government/departments-programs/planning/rezonings-subdivision-cases/2018-items/businesses-rezoning-52-properties>). In late 2018, planning staff received requests to rezone an additional 17 properties. Of those 17 requests, 12 were approved and 5 withdrew their application (all 5 properties were contiguous and under the same ownership).

Based on staff's prior conversations with the board, we contacted the property owners who had not responded to the offer to rezone their property and offered them one final chance to have their property rezoned at no cost to them. In this final effort to provide county-initiated rezoning to known non-conforming properties planning staff sent 162 letters to property owners. Staff received 26 responses, and requests to rezone 14 properties. A GIS web application has been created identifying the properties that have the potential for rezoning, and the list and maps of the 14 parcels requested to be rezoned has been included as attachments. The online mapping tool can be accessed at the following link -

<https://chathamncgis.maps.arcgis.com/apps/webappviewer/index.html?id=8a3a205b2dbd41459379332f46537df3> . Before the August 19th 2019 Board of Commissioners meeting, Glen Dunlap, owner of 1005 Chatham Church Rd, withdrew his request to rezone a portion of his property. The current number of rezoning requests is 13 properties.

Staff requested a public hearing at the June 17th 2019 Board of Commissioners meeting during Work Session. The public hearing was scheduled and occurred at the August 19th 2019 Board of Commissioners meeting. Staff presented a power point presentation giving a brief overview of the properties to be rezoned including the current use of the property. Prior to the Commissioners meeting staff received phone calls, emails, and written comments objecting to the rezoning of the Het Landhuis farm venue on Henderson Tanyard Rd on parcels 73009,10670, and 78275. Those comments are available on the planning department website. At the meeting one neighbor spoke on behalf of the neighbors in opposition to the proposed rezoning. The chief concern of the neighbors is the variety of business uses that could locate on either side of the street in the future. The neighbors have explained they approve of the non-conforming use as a farm venue for weddings and special events, but are worried about future business uses on the land; uses that would be allowed by right in a Neighborhood Business district. There were no other public comments at the hearing. The Board of Commissioners agreed to send the matter to the planning board. The recommendation includes two consistency statements, one for approval and one for denial, and is the same language used in the prior two rounds of business rezonings.

The Planning board reviewed the 13 business rezonings at their regular scheduled meeting on September 3rd 2019. Planning staff gave a brief overview of the rezoning process explaining that these 13 parcels made up the counties last attempt at non-conforming business rezonings. Chair Lucier recommended forgoing the power point presentation presented at the August 19th Commissioners meeting as he and vice chair Siverson, along with Bill Arthur had been there to see it. Owing to the amount of public comment anticipated for the Het Landhuis farm venue parcels, the planning board elected to discuss those parcels separately from the other ten. There were two public

comments in opposition to the rezoning and the owner was not in attendance. The speakers informed the planning board that they spoke on behalf of the crowd and the audience assented by raising their hands. The planning board voted to deny the rezoning by a vote of 8 for and 1 against, with 1 abstention. The Board cited incompatibility with neighboring land uses and the intense neighbor opposition to 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 8 for and 2 against, voted to recommend a resolution to approve the following consistency statement (Note: per Robert’s Rules of Order one abstention was counted a “no” vote):

The request to rezone Parcel 10670, 73009, and 78275 from R-1 Residential to NB Neighborhood Business is not consistent with the comprehensive plan of Chatham County. It is not reasonable and the public interest is not furthered; and the rezoning would impair the integrity of the neighborhood and is inconsistent with the spirit of the Board of Commissioners goals.

The planning board, by a vote of 8 for and 2 against, voted to deny the requested rezoning of parcels indicated in the attachment (Note: per Robert’s Rules of Order one abstention was counted a “no” vote).