

..TITLE

Vote on a Legislative request by Pitt Hill X, LLC for a conditional district rezoning from R-1 Residential to CD-NB for retail shopping center, Parcel No. 2721, located at 10329 US 15-501 N, Baldwin Township on approximately 5.01 acres.

..ABSTRACT

Action Requested:

Vote on a Legislative request by Pitt Hill X, LLC for a conditional district rezoning from R-1 Residential to CD-NB for retail shopping center, Parcel No. 2721, located at 10329 US 15-501 N, Baldwin Township on approximately 5.01 acres.

Introduction & Background:

A legislative public hearing was held on November 18, 2019. Planning staff presented the request and Michael Fiocco, representative for the applicant, was available for questions and comments. Five residents from the adjacent or nearby properties also spoke in opposition of the rezoning request.

Concerns raised by speakers included concern about an increase in noise from US 15-501 through the site to Polk's Village residential subdivision, lighting on the rear of the property, the area to be utilized for the wastewater system has not been fully determined and the maintenance thereof, built upon area limits, and general concern about more development along US 15-501. Written comments that were submitted during the hearing and by email are available from the planning webpage as noted in Attachment No. 1.

Discussion & Analysis:

Conditional Zoning districts are districts in which the development and use of the property is subject to predetermined ordinance standards and rules, regulations, and conditions imposed as part of a legislative decision creating the district and applying it to the particular property. Some land uses are of such a nature or scale that they have significant impacts on both the immediate surrounding area and on the entire community, which cannot be predetermined and controlled by general district standards. The review process established in this Ordinance provides for accommodation of such uses by a reclassification of property into a conditional zoning district, subject to specific conditions, which ensure compatibility of the use with neighboring properties. A conditional zoning district is not intended for securing early zoning for a proposal, except when that proposal is consistent with an approved land use plan or the proposal can demonstrate that public infrastructure needed to serve the development will be made available within a reasonable time period.

A community meeting was held on September 13, 2019 and 6 people attended. The attendees had questions about traffic, access, hours, light, and impervious limits. The community report is included in the application packet and no changes were made to the site plan based on the meeting other than a request for a fence along the western property boundary that adjoins a residential property in Polk's Village.

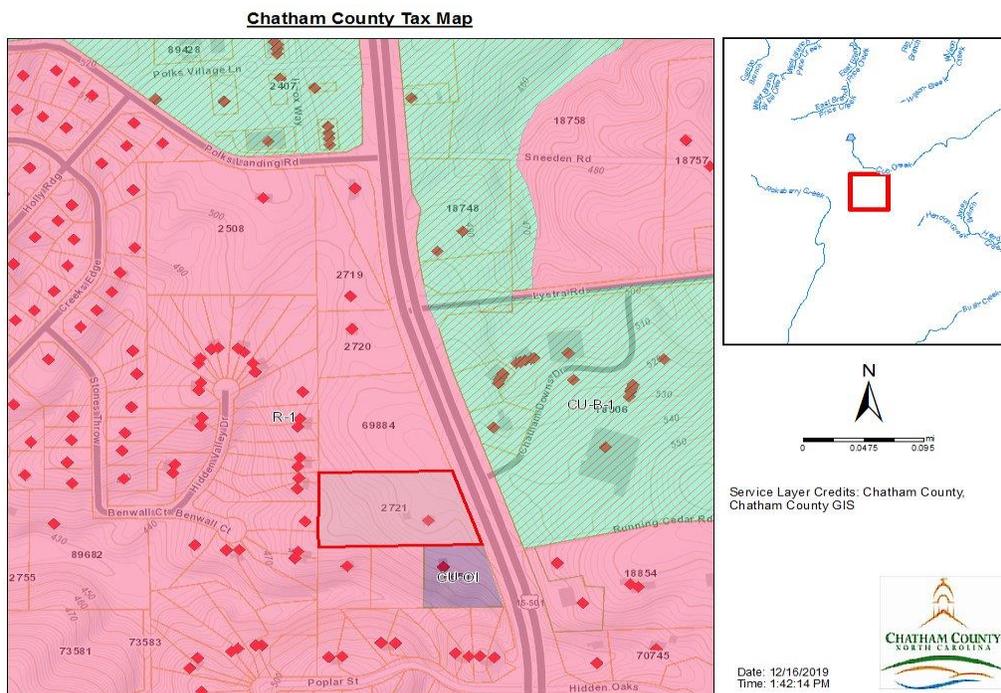
A meeting with the Chatham County Appearance Commission (CCAC) was held on September 25, 2019. Several changes were recommended. They include but are not limited to the following:

1. Change planting selection for perimeter residential buffer areas specifically the northern and southern boundaries.
2. Pervious material be used parking space around tree islands to help ensure growth and sustainability.
3. Grading to be started further away from the property lines to assist in preserving the existing tree lines.

The minutes with all suggested changes/corrections are attached and referenced in the suggested conditions below.

There are five standard items listed in the Zoning Ordinance that must be addressed by an applicant when submitting a rezoning application. The applicant has addressed those items in the application materials or in supplemental material and they are also discussed below.

The map below shows the current zoning and surrounding zoning district for the property under consideration:



Item #1: The alleged error in this Ordinance, if any, which would be remedied by the proposed amendment with a detailed description of such error in the

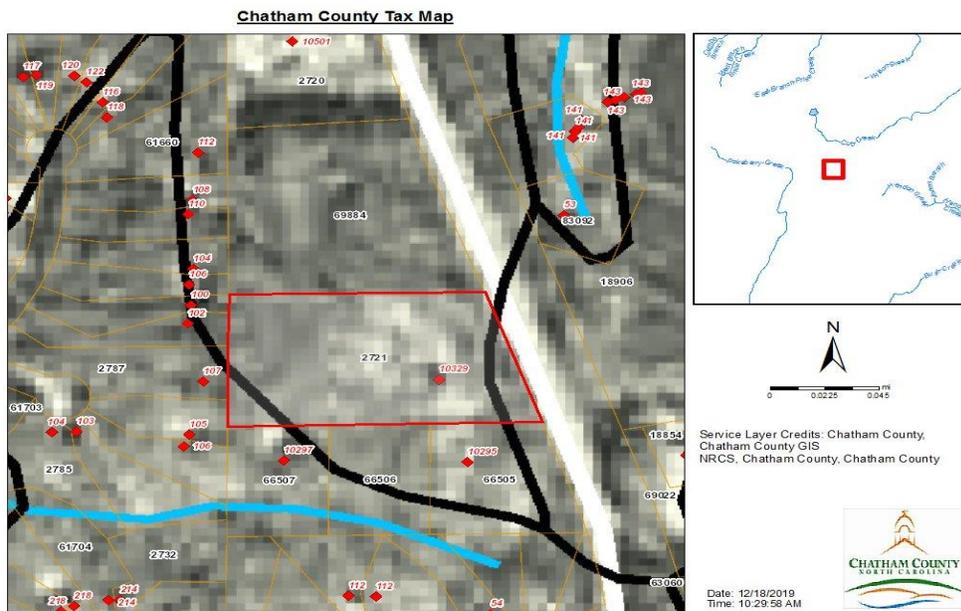
Ordinance and detailed reasons how the proposed amendment will correct the same. The applicant is claiming no errors in the Ordinance.

It is planning staff opinion this finding is met.

Item #2: The changed or changing conditions, if any, of the area or in the County generally, which make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare. This area of US 15-501 has been identified as part of the Chatham Downs Community Center node in Plan Chatham. Existing uses in the node include a chiropractor's office, grocery store, bank, retail, restaurants, daycare, and medical facility and therefore is the location adopted by the Commissioners as an area for additional non-residential growth. This site will provide services that enhance residents' access to good and services in an area designated as commercial, helps to keep tax revenue within the county which in turn keeps the tax base healthier and creates jobs.

The property is served by a four-lane highway and NCDOT may require additional improvements to this section of highway by implementing a deceleration lane for traffic heading southbound on 15-501. The drive will offer a right turn out only which keeps traffic flowing in a safer more expedient manner.

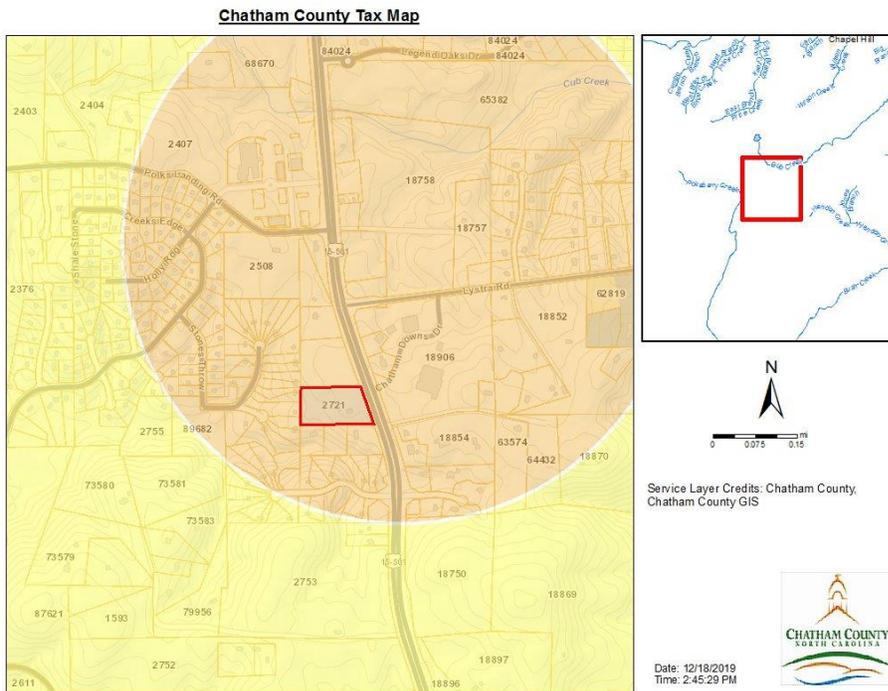
The map below from Natural Resources Conservation Service shows no water features that would be impacted by this project. Proper erosion control and stormwater permits will be required before disturbing the site for development and on-going inspections will occur during construction.



It is planning staff opinion this finding is met.

Item #3: The manner in which the proposed amendment will carry out the intent and purpose of any adopted plans or part thereof. Page 47 of the Comprehensive Plan identifies Community Centers as retail hubs along key corridors which accommodate regional retail tenants complemented by local-serving commercial development. This property is located within the community center node identified as Chatham Downs.

Page 67, Strategy 6.4 requires working with NCDOT to plan and implement the best possible access for commercial nodes. It does discourage driveway permits for every parcel by incentivizing shared driveways, cross-access easements, and other measures to reduce the number of direct access points. Medians and deceleration lanes may also be required to be installed by the developer. A condition has been recommended regarding a cross access easement since future development of the northern parcels could occur and this would allow interconnections between the sites. The map below identifies the community node depicted on the Future Land Use and Conservation Plan Map in Plan Chatham.



It is planning staff opinion this finding is met.

Item #4: The requested amendment is either essential or desirable for the public convenience or welfare. In 2017, prior to the adoption of the new Comprehensive Plan, a proposal for an approximately 61,000 sq. ft. grocery on 26 acres was submitted and ultimately withdrawn by the applicant due concerns raised by neighboring property owners. This proposal is for 14,400 sq. ft. of retail, office, and restaurants. In order to keep tax revenue in the county, locating non-residential development in areas identified for growth in Plan Chatham is needed. While many residents travel outside of the

county for work these retail establishment provide them additional options to obtain goods and services.

This project has been designed with consideration given to the residential area to the west. The buildings and parking areas have been located as close to the US 15-501 as allowed by the ordinances. Lighting and signage will also comply with the regulations so as to not interfere with the residential areas. The developer will maintain as many trees as possible in developing the septic field and stormwater pond areas to the south and west of the property.

The site plan indicates that built upon area will be limited to approximately 34%. The Watershed Protection Ordinance allows up to 36% without curb and gutter therefore keeping over one half of the property undeveloped. The map below depicts the current watershed classification of WSIV-PA within the Jordan Lake Buffer rule area.



It is planning staff opinion this finding is met.

Item #5: All other circumstances, factors, and reasons which the applicant offers in support of the proposed amendment include: Since this request is for conditional district rezoning, the applicant has provided a list of prohibited uses. This is to help ensure the businesses that locate on the site cause the least disruption to the adjoining residents. Additionally, the buildings are located in the front of the parcel to help reduce noise from US 15-501. As much as practical, existing vegetation will remain to also act as noise reduction and shielding from direct lighting.

It is planning staff opinion this finding may be met.

The Planning Board reviewed the request during their regularly scheduled meeting on January 7, 2020. A summary of their discussions is noted below:

<ul style="list-style-type: none"> • Project too dense 	<ul style="list-style-type: none"> • Rezoning not needed on 4th corner of a major intersection on the 15-501 corridor
<ul style="list-style-type: none"> • Adjoins a residential housing development and view from house will be a parking lot 	<ul style="list-style-type: none"> • Type of development is a problem
<ul style="list-style-type: none"> • Need to utilize existing commercial development that has already been approved but not developed (i.e. William's Corner) 	<ul style="list-style-type: none"> • Too much of a burden to Polks Landing residents
<ul style="list-style-type: none"> • Inconsistent with Plan Chatham because it is in close proximity to residential 	<ul style="list-style-type: none"> • Amount of disturbance for septic area is not known at this time
<ul style="list-style-type: none"> • Concern about the potential environmental impact with the tree removal, increased stormwater runoff, impacts to streams near the site, and possible stress in the overall watershed 	<ul style="list-style-type: none"> • Concern about the location of septic system and possible runoff onto adjoining properties

The applicant and his representative provided the following responses to the concerns raised during the meeting: the site wouldn't have been chosen unless it was located in a node identified on the future land use map as an area for this type of development; they know that a conventional septic system will be able to serve the property; there is no interest in removing all of the trees; the septic system will have an initial and repair area so all of the vegetation won't need to be removed; parking is approximately 100' away from 15-501 so cars will have more space to decelerate as they enter the parking lot; the undeveloped commercial sites that have been referenced are much larger and don't offer small lease space; the large undeveloped projects have different financial issues and will take longer to develop due to the substantial financial investment needed; and the county made a significant investment in Plan Chatham and if this site doesn't meet the criteria then what is the purpose of the plan.

Planning Board discussion included that this type of development is a problem and will result in a continuous strip of commercial businesses along 15-501; there are several approved commercial projects along the corridor that haven't moved forward but are still valid; a comment that every corner of an intersection doesn't need to be commercial; items #2 and #4 are not met because there is significant commercial development along the corridor; the parcel is too small for the proposed intensity; concern about slopes adjoining the site; and too much of a burden on the Polks Landing community. Members also commented the county should stick with Plan Chatham and support locations identified for commercial development; developers need some level of certainty about plan approval and this follows the plan; and three corners of this intersection are already constructed for or approved for commercial is the fourth corner supposed to remain rural and does that make sense.

The following are comments addressing the above mentioned discussions:

<ul style="list-style-type: none"> The project will have approximately 15,000 sq. ft. of rental space separated into two one-story buildings. This will serve 8-10 small businesses 	<ul style="list-style-type: none"> The parcel is located within a Community Center node per the adopted Comprehensive Land Use plan where non-residential has been encouraged to locate
<ul style="list-style-type: none"> Project has taken steps to pull development as close to US 15-501 as allowed by ordinance to create an over 300 ft natural area buffer for the septic field and open space while preserving as much of the natural treescape and vegetated areas 	<ul style="list-style-type: none"> Applicant and owner has removed 21 potential permitted uses from the list that they believe would not be compatible with the neighboring residential area due to high traffic activity, noise, or level of use
<ul style="list-style-type: none"> This project is to help the smaller retail/office professionals have a working center in which to locate their business. The owner is ready to begin construction as soon as possible unlike other projects that have obtained approval and remain undisturbed. Some as long as 13 years 	<ul style="list-style-type: none"> Applicant has applied for a business in a node that was identified by the citizens, staff and Board of Commissioners as the designated acceptable area in which to locate. All nodes will border residential areas in some capacity. Being mindful of that, the applicant has made every change possible to make this a viable, acceptable project
<ul style="list-style-type: none"> The Community Center node states to be located along roadway corridors, provide a mix of centers at quadrant intersections, can include residential components, buildings can be 2+ stories (these are single story), and is specifically named in the Chatham Downs location. The Plan was to give developers some level of certainty of rezoning 	<ul style="list-style-type: none"> The project is limited to 36% built upon area. The owner has stated will only disturb the amount of area absolutely needed for the septic system, site footprint, and landscaping as defined and allowed by the ordinances in which regulate such matters

The Planning Board voted 8-3 to recommend denial of the rezoning request based on being in close proximity to residential development and 8-3 to recommend a consistency statement that the rezoning is not consistent with Plan Chatham by being located in close proximity to existing residential development.

Planning staff recommends approval of the request based on meeting ordinance requirements, complying with Plan Chatham strategies and guidelines, and reduction in uses in order to accommodate the neighboring areas. Based on all five findings being addressed and complying with current regulations, planning staff recommends approval of the conditional district rezoning request.

How does this relate to the Comprehensive Plan:

The Comprehensive Plan identifies Community Centers as retail hubs along key corridors which accommodate regional retail tenants complemented by local-serving commercial development. This property is located within the community center node identified as Chatham Downs.

Recommendation:

The Planning Board by vote of 8-3 recommends denial of the rezoning request. It is the

opinion of planning staff to recommend approval of the conditional rezoning request based on all standards being supported.

The following consistency statements are provided for consideration in denial of or in support of the rezoning:

#1 For Denial:

Parcel No. 2721 located at 10329 US 15-501 does not support the goals of Plan Chatham by being located in close proximity to a residential development.

#2 For Approval:

Parcel No. 2721 located at 10329 US 15-501 supports the goals of Plan Chatham by being located within a Community Center node.

The following conditions are also provided for consideration should the rezoning be approved:

Site Specific Conditions

1. The list of prohibited uses as shown in Attachment A of the application shall apply to the site. Any deviation from this list will require a revision and approval to the conditional district zoning by the Board of Commissioners.
2. The recommendations from the Chatham County Appearance Commission (CCAC) shall be followed as stated in the minutes and a revised site plan is required. The planning staff and CCAC may conduct routine inspections of the property to ensure compliance with the landscaping requirements.
3. A cross access easement shall be noted on a revised site plan between the parking areas on the subject property to the parcel to the north to allow for an internal road connection for any future development. This cross connection shall be approved by the Chatham County Planning Department and the applicant to ensure the location is adequate for future use.
4. Prior to any land disturbing activity a report indicating the exact location and area needed for the septic field and repair area shall be provided to the Planning Department in order to verify that native vegetation is being left undisturbed to further enhance the buffer between the non-residential property and the residential property to the west.
5. A building permit shall be obtained and remain valid at all times within two years of the date of this approval or the site plan and approved uses becomes null and void.

Standard Site Conditions

6. The application, standards and adopted regulations of the applicable ordinances and policies, and the approved recommendations as provided for and/or conditioned, are considered to be the standards as set forth and shall comply as stated. Changes to or variations from any requirements of this permit must be approved through the Planning Department or other approving board before any such changes can take place.
7. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Land and Water Resources, and Environmental Health Division, etc.) shall be obtained, if required, and copies submitted to the Planning Department as part of the platting process.

Standard Administrative Conditions:

8. Fees - Applicant and/or landowner shall pay to the County all required fees and charges attributable to the development of its project in a timely manner, including, but not limited to, utility, subdivision, zoning, and building inspections.
9. Continued Validity – The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditions listed above.
10. Non-Severability – If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
11. Non-Waiver – Nothing contained herein shall be deemed to waive any discretion on the part of the County as to further development of the applicant's property and this permit shall not give the applicant any vested right to develop its property in any other manner than as set forth herein.