



CHATHAM COUNTY BOARD OF COMMISSIONERS AGENDA ABSTRACT

ITEM NUMBER:
MEETING DATE:
10-17-05

PART A

Subject:

Request by Baycorp Development, Inc on behalf of Clarence M. Walters for a Conditional Use B-1 Business District with a Conditional Use Permit for various uses, consisting of one (1) lot on approximately 4.6 acres, located off U. S. Hwy 15-501 N and SR-1532, Mann's Chapel Road, Baldwin Township.

Action Requested: See Recommendations.

Attachments:

The following was prior to the September 19, 2005 Public Hearing:

1. Application and zoning request for Conditional Use District and Permit.

Included in this packet:

2. Appearance Committee Report

Submitted By:

Keith Megginson, Planning Director

Date

County Manager Review:

Charlie Horne, County Manager

Date

This abstract requires review by:

☒ **County Attorney**

Date Reviewed

☒ **Finance Officer**

Date Reviewed

☐ **Budget Officer**

Date Reviewed

PART B

Re: Baycorp Development, Inc.

Introduction / Background / Previous Board Actions:

See application dated August 22, 2005 for background information.

February 15, 1982: County Commissioners approval of a conditional use permit within the existing RA-40 zoning district for a small appliance repair business for Clarence Walters.

A public hearing was held on this request on September 19, 2005. Nick Robinson, attorney, addressed the Board on behalf of the applicant. Robert Eby stated that he felt the location was appropriate for a B-1 use; however, he had concerns regarding the fact that there was not a specified user of the property at this time. Mr. Eby stated that he thought that any use of the property other than the bank use should require a revision to the conditional use permit and not just a site plan review. Jeff Starkweather stated that he had concerns regarding the two proposed entrances, one onto Mann's Chapel Road, SR-1532 and one onto U S Hwy 15-501. He also had concerns regarding no specific use of the property.

Issues for Further Discussion and Analysis: The request before the Board has two parts. The first is a request to have the zoning district for the subject property changed from a RA-40 (Residential / Agricultural) district to a Conditional Use B-1 Business District. The Chatham County Zoning Ordinance addresses amendments to the ordinance in Section 17.3, Procedure for Submissions and Consideration of Applications for Amendment, item (B), Contents of Application. The applicant supports the request to change the zoning district as stated in his text "This proposal is certainly in a suitable location in that it is at the critical commercial intersection in Northeast Chatham County. Commercial development exists on all quadrants of the intersection at this time. This "wrap-around" parcel with frontage on both U. S 15-501 and Manns Chapel Road is ideally suited for business uses."

The second part of this request is for a conditional use permit. The Chatham County Zoning Ordinance requires the following five findings be made:

1. The use requested is among those listed as an eligible use in the district in which the subject property is located or is to be located.
2. The requested conditional use permit is either essential or desirable for the public convenience or welfare.
3. The requested permit will not impair the integrity or character of the surrounding or adjoining districts, and will not be detrimental to the health, safety or welfare of the community.
4. The requested permit will be consistent with the objectives of the Land Development Plan.

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5. Adequate utilities, access roads, drainage, sanitation and/or other necessary facilities have been or are being provided.

The applicant has addressed the five findings in his text. The applicant is requesting B-1 uses as listed in Section 10.5, Business District, (A), Permitted Uses, EXCEPT, for those listed below, to be allowed on the property. Uses prohibited are:

1. Amusement enterprises such as pool, bowling, roller rink when housed entirely with a permanent structure.
2. Bus passenger stations
3. Funeral homes, embalming, crematoria
4. Fur storage
5. Hotels, motels, inns
6. Laundries, laundromats and dry cleaning
7. Mobile home sales and service
8. Pawnshops
9. Radio and television stations and their towers

The applicant has stated that the anticipated use of the property at this time is a bank, but this could change and another of the permitted uses may be utilized. Nick Robinson states in the application and stated at the public hearing, that any change in use would necessitate another site plan review by the Appearance Committee and the Planning Board and approval by the County Commissioners. The Chatham County Appearance Committee has reviewed the site plan for the bank. See attachment # 2.

In review of the uses the applicant proposed to be considered as permitted, staff has some concerns regarding site plan review only of several of those uses. Those uses of concern include automobile repair garages - automobile sales and service - automobile service stations - bait and tackle shops - boat, trailer and other utility vehicle sales and service - feed, seed, fertilizer retail sales - landscaping and grading business - motorcycle sales and service - open air sales and service of accessory buildings and gazebos and like free-standing structures - self-storage facility - and swimming pool and related items sales and service. Staff thinks that hours of operation, traffic, and outside storage of equipment for these types of businesses and other potential concerns should require a conditional use site plan review with public hearing input, versus regular site plan review and approval. Many of the uses requested, i.e. eating and drinking establishments, drug store, florist, hardware sales, paint retail shops are similar enough in use, hours, and traffic, that a regular site plan review may be appropriate if only the interior configuration is changed and the perimeter landscaping remains the same. The Board may want to review the types of uses requested in regard to the type of future site plan review required.

In discussion with Nick Robinson, Attorney, he has advised that the applicant is agreeable to the uses of concern as stated above being required to go through a conditional use site plan review process. All other permitted uses would require regular site plan review by the Appearance Commission, review and recommendation by the Planning Board and approval by the Board of County Commissioners.

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If the Citgo/Pantry use on the adjacent property is expanded in the future onto a portion of this four acre tract, that would require a zoning district change and a revision to this proposed conditional use permit.

The property will utilize county water and an individual septic system and repair area. Although, the soil scientist report, prepared by S & EC, states that the report was done for a proposed Eckerds Drug Store; it indicates that a septic system layout was prepared which would accommodate 15 employees. The report also states that approval of any system must come from the local health department. Any of the proposed uses will require review by the Chatham County Health Department, Environmental Health Division for the specific use and number of employees.

Per Jessie Knight, with NCDOT, the two commercial driveway location requirements, i.e. left turn lane and right turn taper off Mann's Chapel Road and right in right out only on U. S. Hwy 15-501, will accommodate any of the uses requested.

Staff thinks that an access should be provided from the subject property to the adjacent Citgo/Pantry property to provide for internal traffic movement without the public having to exit onto the main highways to travel from one business to another.

Under Finding # 3, Item 7, Signs, no height limitation was proposed by the applicant. Staff recommends a maximum height limitation of 20 feet above the ground at its base.

The plan as proposed for a bank will cover approximately 21% impervious surface area. The watershed district, WSIV-Protected Area, states non-residential development shall not exceed twenty-four percent (24%) built-upon area on a project by project basis. For projects without a curb and gutter street system development shall not exceed thirty-six percent (36%) built-upon area on a project by project basis. A portion of the property is shown as being within the WSII-Balance of Watershed District which drains into University Lake and allows 12 percent impervious surface coverage. Due to the new roadway construction by NCDOT along Mann's Chapel Road and proposed grade changes to subject property, the portion no longer drains into University Lake and is considered within a WSIV-PA Watershed District.

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Recommendation: The Planning Department and Planning Board recommend that the Board of County Commissioners makes the five required findings. The Department and Board recommend that the Commissioners approved the change in the zoning district on the subject property from RA-40 to Conditional Use B-1 Business District. The Department and Board recommend approval of the request for a Conditional Use Permit for various uses with the following nine (9) conditions:

1. The following uses shall require a conditional use site plan review: automobile repair garages - automobile sales and service - automobile service stations - bait and tackle shops - boat, trailer and other utility vehicle sales and service - feed, seed, fertilizer retail sales - landscaping and grading business – motorcycle sales and service - open air sales and service of accessory buildings and gazebos and like free-standing structures - self-storage facility – and swimming pool and related items sales and service.
2. The following uses shall be prohibited:
Amusement enterprises such as pool, bowling, roller rink when housed entirely with a permanent structure - Bus passenger stations - Funeral homes, embalming, crematoria - Fur storage - Hotels, motels, inns - Laundries, laundromats and dry cleaning - Mobile home sales and service – Pawnshops – Radio and television stations and their towers
3. Prior to any land disturbing activities, other agency permits, if applicable, must be obtained and copies furnished to staff, i.e. Chatham County Environmental Health Permit, NCDOT commercial driveway permits, NCDENR erosion control permit, Chatham County Public Works water line plan approval and NCDWQ authorization to construct, etc.
4. All lighting must conform to the Chatham County Draft Lighting Ordinance.
5. Signage shall have a maximum height of 20 feet above the ground at its base and shall otherwise conform to Section 13.7, Signs Permitted in the B-1, Business District, of the Chatham County Zoning Ordinance.
6. A revised site plan shall be furnished to staff prior to issuance of a building permit to include specific signage location(s) and size and shall include a 15 foot wide, type A, Opaque landscape buffer or a 10 foot wide enhanced landscape buffer on the southern property boundary, except where natural vegetation exist that provides an opaque buffer. The revised plan shall also include a 10 foot wide, Type B, Semi-opaque buffer on the northern property boundary adjacent to the Citgo/Pantry property. If in the future, the natural, existing vegetation as shown on the site plan is reduced in size to the minimum 15 foot wide buffer, and under story plantings do not provide an opaque screening, applicant shall be required to install plantings to provide said opaque screening. All required landscaping shall be installed prior to the issuance of a certificate of occupancy for the structure. Landscaping shall be property maintained and replaced when needed.

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Recommendation – con't

7. A paved driveway connection from the applicant's property to the southern property line of the Citgo/Pantry property to the north is required. The Planning staff encourages applicant and the owner of the Citgo/Pantry property to work together to open and complete the driveway connection so as to allow for interior traffic movement between the properties. The location of the driveway stub to the property line shall be shown on the revised site plan.
8. Storm water management plan shall be as specified in the application.
9. This permit shall automatically expire on the second anniversary of its issuance unless (a) construction has commenced after the issuance of a Zoning Determination and Building Permit; or (b) a timely filed application for an extension of time has been approved by the county.