

PLANNING & ZONING REVIEW NOTES

V. B.

SUBJECT:

Request by **R.L. Matthews** for a conditional use permit on Parcel #19386 consisting of approximately 1.197 acres, located at 545 Old Farrington Rd., for a “heating, plumbing, electrical, cabinet, and similar shop” business.

ATTACHMENTS:

The following was submitted at the December 2, 2008 Planning Board meeting:

1. Application packet

The following may be viewed on the Planning Department website at www.chathamnc.org under Rezoning & Subdivision Cases, 2009:

2. Appearance Commission recommendations

INTRODUCTION & BACKGROUND:

A quasi-judicial public hearing was held on this request on January 26, 2009. No one spoke in opposition of the conditional use permit. Planning staff presented some concerns or clarifications with regards to signage as requested by the Chatham County Appearance Commission (CCAC). This has been addressed in the below conditions.

The conditional use permit request cannot be approved unless, in this case, the request for conditional use rezoning of the property has been recommended for approval.

DISCUSSION & ANALYSIS:

A recommendation of this request is based on the five findings as set out in the ordinance. They are listed as follows:

Finding #1-The use requested is among those listed as an eligible conditional use in the district in which the subject property is located or is to be located.

Finding #2-The requested conditional use permit is either essential or desirable for the public convenience or welfare.

Finding #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.

Finding #4-The requested permit will be consistent with the objectives of the Land Conservation and Development Plan.

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

It is the opinion of the planning staff **Finding #1** may be supported and would be a permitted use in such district if the conditional use rezoning request be approved. The applicant has provided information in the conditional use rezoning request for support given in connection with the Land Conservation and Development Plan and as seen under Finding #4.

DISCUSSION & ANALYSIS – cont.

It is the opinion of the planning staff **Finding #2** has been supported. The applicant states in the application a review of the surrounding area did not identify any other heating, cooling, and appliance repair shops. These types of services may be supplied by businesses outside Chatham County. There would be no additional public improvements to be made on this property. The current driveway will be used, the property is currently approved and will continue to be allowed to utilize the wastewater system for Governor's Club through Aqua NC, and county water is supplied. Though the difference in the tax rate from residential to commercial is not noted in the application, planning staff contacted the tax appraisal office and determined the current tax value for residential use is \$246,849. If the property gets the approval and the tax value changes to commercial, the property value should slightly increase. A new appraisal will need to be done to know the exact impact on property value.

It is the opinion of the planning staff that **Finding #3** may be supported. No additional efforts from local fire, police, or emergency services are expected. The property will generally have two people that will staff the office on any given day. The workers arrive in the morning, pick up their routes for the day, along with any supplies, and leave the property not to arrive back until the end of the business day. The property is served by SR 1726, Old Farrington Road. This property will not have a retail aspect or a customer base that visits the property. A traffic analysis was not provided with this request but one was provided with an earlier request for the Carolina Meadows expansion project. Traffic generated from this proposal should have little effect on the current traffic conditions.

The CCAC provided some additional plant material to assist in "filling in" some areas but were very pleased with the applicant's landscape plan for screening and maintaining the original look of the property. An eight foot high fence has also been installed along the northern and western property line areas to offer more opaque screening from adjacent landowners along with retaining the mature trees on the property. The CCAC's recommendations are incorporated below in the conditions.

Lighting will be limited to security lighting and low level landscape lighting. The main structure and garage will be equipped with "motion-activated" downward aimed flood lights. Lighting will follow Section 13 of the Zoning Ordinance.

Noise and chemicals are not considered to be an issue with this activity. Any Freon used for the repairs is generally kept in very small amounts and stay on the trucks per the applicant.

It is the opinion of planning staff that **Finding #4** may be supported. Page 1 of the Plan lists several policies that are to be considered when development is proposed. The Plan states growth should consist of a mix of different types of development and guided to suitable locations. There is a property adjacent to this proposed commercial business that received a conditional use rezoning with a conditional use permit for a beauty shop. One aspect of that approval and this request is these types of businesses serve an immediate customer base for the surrounding residential properties. The applicant stated there is not

DISCUSSION & ANALYSIS – cont.

another small business that specializes in his field to serve the immediate area. Within ¼ mile of this location is the Governors Village commercial area that provides services such as grocery, banks, restaurants, and general retail. The applicant states in the request a review of heating, cooling, and appliance repair shops were not found in the northern Chatham County area. One could assume people may be getting these services from Orange and Durham Counties. Page 27 of the Plan addresses Economic Centers. Economic development that would be supported by the Plan includes exploring the feasibility of pursuing community compatible business enterprises. The applicant states in his request the combination of business and the nearby residential uses create an environment where a business of this nature and size can be sustainable. It allows the neighborhood to have access to types of neighborhood businesses which in turns keeps services and revenue in the county.

The property is expected to yield a 27% impervious surface calculation. The property is located within a WSIV-PA Protected Watershed where 36% impervious surface is allowed.

It is the opinion of planning staff that **Finding #5** has been supported. Adequate water and sewer are currently provided to the site and have received approval to change from residential use to commercial use from Aqua NC and the Chatham County Public Works Department. The usages are expected to be less than would normally be seen with the residential use.

NCDOT has provided a letter that can be viewed on the website stating upon application, a commercial driveway permit may be issued.

There is not expected to be a need or requirement for stormwater measures or erosion and sedimentation controls on this site. The newly adopted Stormwater Ordinance and the revised Erosion and Sedimentation Control Ordinance require plans for land disturbances over 20,000 square feet. The applicant stated the amount of disturbance for parking and the garage area is expected to be approximately 6,000 square feet. No other land disturbance will be created.

It is the planning staff's opinion that all five findings have been met as stated above and as shown in any additional conditions as stated below and therefore recommend approval.

RECOMMENDATION:

It is the recommendation of the Planning staff that this application be approved. The Planning Board has up to three meetings to make a recommendation to the Board of Commissioners on this request. It is requested the Planning Board review any additional conditions imposed upon the request at this time should their recommendation be for approval of the request:

RECOMMENDATION – cont.

Site Specific Conditions:

1. The recommendations of the CCAC shall be followed and plantings shall be made at the next optimal planting season after approval. In addition to these recommendations, the applicant shall submit a sign design to the Planning Department that will be reviewed by the CCAC before a permit may be issued for said sign. The sign can be no larger than 25 square feet, no taller than six feet, and a monument style sign. Annual reviews by the Planning Department and/or the CCAC may be made to ensure landscaping, signage, and lighting continue to support the intent of the ordinances and the listed requirements.
2. The amount of area for parking required by the ordinance shall be made available. However, the graveling, paving, or otherwise preparation for the entire area does not have to be created until which time the applicant needs the additional space. This will limit the amount of disturbance and decrease the amount of impervious surface on the property.

Standard Site Conditions:

3. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Erosion & Sedimentation Control, Environmental Health Section, Stormwater Management, etc.) shall be obtained, if required, and copies submitted to the Planning Department prior to the issuance of a Certificate of Occupancy.
4. Lighting shall be installed and maintained as per the adopted lighting regulations located in Section 13 of the revised Chatham County Zoning Ordinance. Any lighting or fixtures found to be non-compliant, existing or new, with the regulations shall be replaced at the expense of the landowner/operator and shall hold no liability against Chatham County for the compliance measures.
5. An “as-built” impervious surface calculation shall be submitted to the Planning Department prior to issuance of a certificate of occupancy.
6. Off-site improvements required by NCDOT or any other agency shall be constructed at no cost to Chatham County.
7. A building permit shall be obtained and remain valid at all times or this permit shall become void. The first building permit shall be approved within 24 months of this approval or the permit becomes void; or from the time of the expiration of an appeal period or any court decision, whichever is later.

RECOMMENDATION – cont.

Standard Administrative Conditions:

8. Appeal - The County shall be under no obligation to defend any action, cause of action, claim, or appeal involving the decision taken herein. In the event a response is authorized by the County concerning this resolution, or any action to enforce the provisions hereof, the applicant, its successors or assigns shall indemnify and hold the County harmless from all loss, cost or expense, including reasonable attorneys fees, incurred in connection with the defense of or response to any and all known or unknown actions, causes of action, claims, demands, damages, costs, loss, expenses, compensation, and all consequential damages on account of or resulting from this decision. Nothing in this paragraph shall require the applicant to indemnify and hold the County harmless from any losses or costs associated with defense of the County's actions or procedures in considering and acting upon this application.
9. 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 inspection, established from time to time.
10. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued determination with the plans and conditions listed above.
11. Non-Severability - If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
12. 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.