

..TITLE

Request by Todd and Suzanne Yanders for conditional district rezoning for a landscaping design business with outdoor storage of materials on Parcel Number 17352, located at 190 Hatley Road.

..ABSTRACT

Action Requested:

Request by Todd and Suzanne Yanders for conditional district rezoning for a landscaping design business with outdoor storage of materials on Parcel Number 17352, located at 190 Hatley Road.

Introduction & Background:

A legislative public hearing was held on this request October 21, 2013. Planning staff presented the application and noted any issues or concerns that have been or are in the process of being corrected. Concerns/issues included the existence of a floor drain in the building which is not permitted by Environmental Health (EH) regulations. The floor drain has been filled in per the request of EH. The building was originally constructed as an agricultural exempt structure under the provision of horticulture. Since that was no longer the use on the property, the owner's have been working with the Building Inspections Department to gain approval on its construction for commercial use.

No other persons spoke on the request and the BOC had no further questions.

Planning Board met at their regularly scheduled meeting on November 5, 2013. There was no discussion or issues raised.

Discussion & Analysis:

Conditional Zoning districts are zoning districts in which the development and use of the property is subject to predetermined ordinance standards and the 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.

The applicant held the community meeting, which is now required prior to submittal of an application to the Planning Department, on August 21, 2013 at the facility at 190 Hatley Road. A report of that meeting was included in the application packet and is subject to consideration by the Board. No one attended the meeting.

The applicant met with the Chatham County Appearance Commission on August 28, 2013 as required for pre-submittal of the application. The CCAC approved the plan as submitted citing that the applicant had already installed ample landscaping when they first located on the site. They noted that any plant material installed shall be kept in good condition or be replaced in the proper season.

The Conditional Zoning Neighborhood Business (CD-NB) district does permit the use of the site as a landscape design business. The site plans submitted, along with recommendations from the CCAC, meet the standards as approved in the zoning ordinance.

There are four 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 and they are also discussed below.

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 not claiming any error in the ordinance.

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.

Initially this property was approved for use as a horticulture operation and thereby given an "agricultural" exemption in regards to zoning and building inspection. With the decline of the economy in 2008 to 2012, the applicant had to redesign his business plan and began operating as a landscape design business. This took the operation out of the agricultural use it was originally approved for. The applicant wishes to maintain operations in Chatham County and move forward with utilizing the property for business use.

Item #3: The manner in which the proposed amendment will carry out the intent and purpose of any adopted plans or parts thereof.

The structure built on the property looks like a residential home and/or a two story residential garage. This helps to maintain the rural character of the surrounding area even though there is a mini warehouse storage facility beside this property owned and operated by John Blair that is currently zoned conditional use B-1, Business. There is also a single family dwelling located on this tract that will remain residential. Through this use, the business will continue to provide employment and services to Chatham County per the applicant.

Item #4: All other circumstances, factors, and reasons which the applicant offers in support of the proposed amendment.

The applicant wishes to be compliant with current zoning, building, fire, and environmental health regulations and continue to operate their business in Chatham County. This conditional district rezoning will allow them to do that.

Stormwater measures will be reviewed by the Environmental Quality Department. Since the project area has already been established when they first located there, the EQ director will review the regulations to see if stormwater measures are required. The applicant will work directly with them and are willing to comply with such requirements.

The property operates on an existing well recently installed for the project area through Environmental Health. County water is not available.

Recommendation:

Planning Board recommends adoption of an Ordinance Amending the Zoning Ordinance to rezone the property from R-1 to CD-NB and a Resolution Approving a Consistency Statement. The Board of Commissioners is asked to review and approve the below conditions as part of its decision.

It is also the Planning Board's opinion the following Consistency Statement should be adopted as follows:

- ***The rezoning request of Todd and Suzanne Yanders is consistent with the Land Use Policies and Objectives of Chatham County.***

Site Specific Conditions

None noted

Standard Site Conditions

1. 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 or variations must be approved through the Planning

Department or other approving board before any such changes can take place. These include but are not limited to landscaping, lighting, signage, parking, building construction, etc.

2. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Erosion & Sedimentation Control, Environmental Health Division, Stormwater Management, Building Inspections, Fire Marshal, etc.) shall be obtained, if required, and copies submitted to the Planning Department prior to the initiation of the operation/business.
3. A Certificate of Occupancy shall be obtained within two years of the date of this approval unless other approval/s has been given for an extension, or this approval becomes null and void.

Standard Administrative Conditions:

4. 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.
5. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditions listed above.
6. Non-Severability - If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
7. 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.