

## **..TITLE**

A request by Jeff Cooper dba Furniture Follies to rezone Parcel No. 2639 from R-1 Residential to Conditional District Neighborhood Business, located at 11311 US 15-501 N, being approximately 1.67 acres for a furniture and general retail sales business with covered outdoor display of furniture, Baldwin Township.

## **..ABSTRACT**

### **Action Requested:**

A request by Jeff Cooper dba Furniture Follies to rezone Parcel No. 2639 from R-1 Residential to Conditional District Neighborhood Business, located at 11311 US 15-501 N, being approximately 1.67 acres for a furniture and general retail sales business with covered outdoor display of furniture, Baldwin Township.

### **Introduction & Background:**

A legislative public hearing was held on August 18, 2014. Planning staff presented the request. Presenting were the applicants Jeff & Julia Cooper, Attorney Cindy Perry, and architect Mr. Jack Haggerty. There was one speaker, Mr. Bob Crumley, representing the adjacent landowners, Harold and Nancy McCoy, who addressed various concerns they have about the appearance of the proposed facility.

The subject property is currently zoned R-1 Residential although incorrectly stated on the application. The two designations, RA-40 and R-1, are the same. RA-40 is a past description. The parcel has been used for residential purposes and had a site built home on it until April 2014 when the application had the structure demolished and removed.

The area surrounding and adjoining the subject property include residential, commercial/retail, and office and institutional. The larger properties were approved through conditional use rezoning including the adjoining property to the north. This property was conditionally zoned in October 2005 for a bank. Across US 15-501 is the Lowes grocery store complex and CVS approved under conditional use in 1988 for a shopping center.

The applicants currently own a used furniture store in Orange County and are looking to relocate the business into Chatham County on family owned land.

## **PLANNING BOARD ACTION**

**The Planning Board met at their regularly scheduled meeting on September 2, 2014. One issue discussed was the connection of the project to the land use plan (LDCP) of the county and the potential for US 15-501 North becoming commercial strip zoning. Other Board members stated this property was near a commercial intersection, there is commercial zoning adjacent, and across the roadway. The**

**LDCP encourages cross-roads commercial development and the continuation of commercial uses in areas already being used as such.**

**One other concern noted was for the wording for Condition No 2 of the recommended approval. It was decided to remove the last part of the sentence that read “and shall be taken inside at the end of each business day”. The below conditions reflect that change.**

**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.

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, in the area or in the County generally, which make the proposed amendment reasonably necessary for the promotion of the public health, safety, and general welfare.

As stated above, this area of Chatham County and specifically this portion of the US 15-501 corridor, has become historically a commercial, crossroads neighborhood. There has been no opposition to the use of the property for commercial purposes.

The applicant held the required Community Meeting for this project. There was one neighbor, Mr. McCoy, who attended the meeting and had concerns with the rezoning. The concerns were the “look” of the building where the neighbor wanted a brick building so it would be in harmony with his residence. Lighting and the amount of traffic were also discussed. At the public hearing, Mr. Crumley, who was representing the McCoys, stated the façade of the building was a concern and if allowed to construct a metal building, it was his opinion the property value would diminish. He also requested the dumpster and loading locations be moved to the north side of the building. Per the site plan, the dumpster must be screened and enclosed. The applicant has noted an eight foot (8') high opaque enclosure. Mr. Crumley also presented several photos, which are on the website as noted above, that depict the applicant's current location. Those photos show the other items being stored outside the building that are not customary to a furniture store. This concern is addressed in the noted conditions below.

The applicant states in the application that lighting will comply with the Chatham County lighting regulations. He plans to install approximately seven (7) full cutoff wall packs on the building and have one (1) 32 sq. ft. double-sided sign for identification on the property. The applicant also met with the Chatham County Appearance Commission (CCAC) and additional suggestions were made to supplement more plantings along the area adjacent to the McCoy property. Those minutes can be viewed on the Planning Department webpage as noted above.

**Item #3:** The manner in which the proposed amendment will carry out the intent and purpose of the adopted Land Use Plan or part thereof.

The applicant states the project would be continuing to support the Designation of Economic Center Locations as noted on page 34 of the Plan. The US 15-501 corridor is specifically listed as an area that may link to infrastructure and build on the economic activity south of Chapel Hill.

The applicant states in the application the Chatham County Strategic Plan concentrates on a mix of commercial developments in the corridors that serve to reduce travel distances for residents. Per the applicant, there are no other similar retail establishments in the vicinity of this project site. He states he's meeting a local need and may also serve residents outside of Chatham County.

**Item #4:** All other circumstances, factors, and reasons which the applicant offers in support of the proposed amendment are they plan to construct a neat and efficient metal building and further states pre-fabricated buildings create less construction waste. There would be some outside display which would remain under the eave of the building. This has been conditioned below. They state this is not a superstore or highly trafficked type of business as you would find with a convenience/grocery store.

The applicant has already obtained approval from the Chatham County Environmental Health Department for a new septic system. The system will support three (3) full time employees and traffic by patrons.

The applicant has received preliminary approval from NCDOT for a commercial driveway permit which will be brought up to their standards as required.

The property is located within the WSIV-Protected Area Jordan Lake Buffer rule watershed. When no curb and gutter is being installed, the property is limited to 36% impervious surface. Impervious surface includes anything under roof, gravel, concrete, and asphalt. This project is proposed to be developed to about 27%.

**Recommendation:**

The Planning Board, by unanimous vote, recommends adoption of a resolution approving the following Consistency Statement:

**It is the opinion of the Planning Board the request to rezone Parcel No. 2639 in its entirety, from R-1 Residential to CD-NB is consistent with the adopted land use plans and regulations of the County, and therefore is approved as requested.**

The Planning Board, by a vote of 9-1, and planning staff recommends approval of the rezoning request and adoption of an Ordinance Amending the Zoning Ordinance to rezone parcel No. 2639 from R-1 Residential to CD-NB Neighborhood Business and that the standards of the ordinance have been or can be met with the following conditions.

**Site Specific Conditions**

1. The recommendations of the Chatham County Appearance Commission and the Landscaping Standards, Section 12 of the Chatham County Zoning Ordinance shall be followed as recommended and agreed to by the applicant. The applicant should ensure the maintenance and survival of all plantings which shall be installed at the next optimal planting season following the issuance of the building permit.
2. Outdoor displays of furniture and accessory furniture items are permitted under the eaves of the building only.

**Standard Site Conditions**

3. 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.

4. 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.
5. 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:**

6. 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.
7. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditions listed above.
8. Non-Severability - If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
9. 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.