



## **Chatham County Planning Board Agenda Notes**

**Date: April 5, 2016**

**Agenda Item: VIII. 3.**

**Attachment #: 1-2**

☐ **Subdivision**

☐ **Conditional Use Permit**

☒ **Rezoning Request**

☐ **Other:**

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<b>Subject:</b>	A request from Nina Staples Lloyd of Opus Financial Advisors for a conditional district Neighborhood Business for General and Professional Office and Event Center Limited on property located at 4421 Mann's Chapel Road, Baldwin Township.
<b>Action Requested:</b>	See Recommendation
<b>Attachments:</b>	<ol style="list-style-type: none"><li>1. Numerous emails and letters in opposition and support for the request can be viewed on the Planning Department website under Rezoning and Subdivision Cases, 2016 under Supplementary documents.</li><li>2. PowerPoint presentation from applicant Nina Lloyd can also be viewed from the Planning Department website.</li></ol>

### **Introduction & Background**

A legislative public hearing was held March 7, 2016. Planning staff presented the application and the applicant, Nina Lloyd, provided a PowerPoint presentation. There were three citizens that spoke in opposition and Attorney Cabell Regan presented a petition in opposition from approximately 60 residents from the surrounding community. The applicant also presented letters of support from existing clients and the City of Salisbury where their home base is currently located. They currently occupy what was previously a two-story single family dwelling in a historical district within the city. One property adjacent to the Salisbury office is still used for residential purposes and that resident offered a letter of support.

This property was originally constructed as a single family dwelling in 1961. Since that time it has been approved for and used for a bed and breakfast inn with associated events such as weddings for the guests of the inn. This use was approved at a time when the Zoning Ordinance allowed B&B Inns as a permitted use and did not require a conditional use permit. The property is approximately 6.05 acres and also has a care takers accessory dwelling on the property. There is also a pergola and restrooms in the rear of the property where the events were held.

### **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, as required by ordinance, on September 21, 2015 and a report of that meeting was included in the application packet and is subject to consideration by the Board. Three adjacent landowners attended the meeting and one non-adjacent landowner. Per the report, there was no opposition and discussion focused on an explanation of what the applicant was proposing and the level of activity.

The applicant met with the Chatham County Appearance Commission on October 28, 2015. They recommended approval of the signage, parking, lighting and landscaping plan. Those minutes are available on the Planning website under this rezoning case.

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.

**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.** No errors in the ordinance are being claimed.

**It is Planning staff opinion this standard is supported as outlined in the zoning ordinance of Chatham County and no errors are being claimed.**

**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.**

Changing conditions in the area include property that was conveyed by Newland Communities to Chatham County for a civic site, construction of a water tower for Chatham County, the new North Chatham Fire Station, and the conditional district approval for The Parlour event center. The civic site property and water tank are located at the Mann's Chapel Road entrance to Briar Chapel and The Parlour is located at the intersection of Poythress and Lamont Norwood Roads. There are other uses that have been approved in the area such as Hinshaw Music that was approved as a conditional use permit over two decades ago and located approximately 500 feet to the east of this site. There are also some home occupation permits for various uses in the surrounding neighborhoods and in close proximity to this proposed use. The applicant has stated there is a lack of general and professional office space that is available in the area. There are retail and personal service businesses at the intersection of Mann's Chapel Road and US 15-501 and extending north and south along US 15-501 N.

Residential growth is developing around this area with Briar Chapel, Legend Oaks, and other subdivisions currently under construction. There is also residential development in Orange County that could utilize commercial and business services in this area.

It is customary for accessory and associated functions for an office use to include meetings, employee appreciation events, fundraisers for the company, etc. and these types of events would not be required to be permitted through an event center limited. The primary use of the property is proposed for the general and professional office within the existing structure. The applicants are not proposing to remove the existing structure, but will take efforts to make necessary repairs and improvements to support the office use. The parking areas are already established and new gravel is to be installed if the rezoning is approved. The property will remain virtually unchanged and maintain the same character as was the case for the bed and breakfast inn which was also permitted to hold events on the site for the guests of the B & B. No additional approval or zoning classification was needed for those events to be held.

**It is Planning staff opinion this standard is supported for the general and professional office use with associated supportive events, but not for Events Center Limited.**

**Item #3: The manner in which the proposed amendment will carry out the intent and purpose of any adopted plans or part thereof by encouraging the expansion and support of current businesses located within the county.** On page 10 of The Land Conservation and Development Plan (the Plan) growth is encouraged that consists of a mix of different types of development. There is little general or professional office space available in this community. The Plan also encourages development that reflects balanced growth where the benefits and burdens are shared. This also includes encouraging commercial development to extend up side roads off major thoroughfares as seen on page 12.

The Plan also addresses Economic Development Centers. The US 15-501 North corridor is specifically mentioned as a link to infrastructure and the ability to build on the economic activity south of Chapel Hill. The property is not identified as an area that is a protected resource or natural conservation area and is maintaining the rural character by keeping the existing look and feel of the property. The applicant is also proposing to repurpose an existing property instead of constructing on a new site. The existing septic system and county water supply will be used so that no new ground disturbance is needed. This helps ensure the character, as it currently is developed, will remain and have no additional impacts on ground and surface waters.

The property is located in a WSII-Balance of Watershed – Jordan Lake Drainage, which is described by the NC Department of Environmental Quality as “waters [that] are generally in predominately undeveloped watersheds” and are considered High Quality Waters that are “rated excellent based on biological and physical/chemical characteristics.” The WS-II BW watershed district allows for up to 12% impervious surface for non-residential uses on the parcel. The existing layout of the property is currently at 11.64% which limits additional built upon area. The Watershed Protection Ordinance also limits uses within the WS-II BW watershed district and the applicants have submitted a text amendment to that ordinance. The amendment would add the uses proposed with the rezoning application to the list of permitted uses within the WS-II BW watershed district.

**The Planning staff opinion is the standards of the Plan are supported.**

**Item #4: The requested amendment is either essential or desirable for the public convenience or welfare by** repurposing an existing structure previously used for a bed and breakfast inn that also was permitted to hold events for guests. The interior of the structure was changed from single family to a bed and breakfast inn by the previous owner. The applicant believes these rooms will easily transition into office space and a conference room for their company. Although the previous use was approved for 70 parking spaces, this project proposed to utilize 21.

Behind the house is a pavilion with two outdoor half bathrooms which was approved by the Chatham County Environmental Health Department and Building Inspections. The Appearance Commission made recommendations for the front of the property and thought the existing vegetation on the side and rear property lines met the intent of the Design Guidelines.

The application notes that the events could include “client appreciation events, financial planning workshops, events to promote financial literacy, and non-profit meetings and/or fundraiser” and “also be available for a fee to other interested parties”. An approval for an Event Center Limited is not needed for the types of gatherings considered accessory to the business, however the other events would require approval of that use as part of the conditional district rezoning. It is not

recommended that the Events Center Limited use be approved since it is not necessary for the office to locate on the property and hold events and gatherings associated with the office use. This would prohibit the rental or loaning of the space to other parties that are not associated with operations of Opus Financial.

The office use could fill a void in the area due to the lack of general and professional office space availability. This is also encouraged in the Land Conservation and Development Plan to allow for a mix of uses. The major activity centers are at the intersection of Mann's Chapel and US 15-501 and along the 15-501 corridor with retail, personal service shops, grocery, banking, etc. These are high intensity activity areas that should be clustered together outside of primarily residential areas. Lower intensity activity areas are encouraged to extend up side roads where residential areas are more prominent. NCDOT has indicated that, as a formality, a new commercial driveway permit would be required due to the change in use.

**It is Planning staff opinion that the general and professional office use is essential or desirable for the public convenience, but does not support the Events Center Limited use.**

**Item #5: All other circumstances, factors, and reasons which the applicant offers in support of the proposed amendment include** maintaining the character with the repurposing of the existing structure and keeping the impervious surface at or below 12%. Lighting will be limited in use and signage will be placed in the location of the former sign with added landscaping.

If the applicant had decided to utilize this as their primary residence and live on-site, the use could have been approved through the Home Occupation permit process. This is an administrative approval, if the standards of the Zoning Ordinance can be met, along with other agency inspections and approvals. There are other similar types of neighborhood and rural home occupations such as a counseling service, tax preparation services, small automotive repairs, small scale landscaping contractor, firearms dealers, etc. However, since they are not living on the property, the conditional district rezoning was the option best suited for the request. The use/s would be restricted to what is approved, unlike a general use neighborhood business rezoning which would allow for any of the uses listed in Section 10.13 Table of Permitted Uses table under that category.

The use of the property for general and professional office would be in harmony with the surrounding area based on the information in this application. The use of an Events Center Limited would not be in harmony with the surrounding area based on comments from the community and the increase in activity on the property from events not associated with the office use.

**It is Planning staff opinion this standard is supported based on the intent of the Zoning Ordinance for the general and professional office use only.**

### **Recommendation**

The Planning Board has up to three (3) meetings in which to provide a recommendation to the Board of Commissioners. **It is Planning staff opinion the use for general and professional office is supported, but the Events Center Limited is not supported.**

Should your recommendation be in support of the rezoning request, the following **Consistency Statement** is also provided for consideration:

**It is the opinion of the Planning Board that the rezoning request for Parcel No. 2516, being approximately 6.053 acres, located at 4421 Mann's Chapel Road is consistent with the goals and objectives of the Land Use Plans of Chatham County by supporting a mix of development that encourages and supports growth in designated economic center areas and extends up side roads, and protects ground and surface waters by limiting ground disturbances.**

Should your recommendation be for approval, the following conditions are provided for your consideration:

### **Site Specific Conditions**

1. The recommendations of the CCAC shall be followed and required plantings shall be installed by the next optimal planting season following the approval of the request. Additional plantings or other screenings shall also be installed to fill in any areas between adjoining properties where the existing vegetation does not provide coverage for a Type A opaque buffer.
2. A Certificate of Occupancy for the general and professional office use shall be issued within two (2) years of this approval or it shall become null and void.
3. Accessory events associated with the business that involve outside gatherings, shall comply with all lighting, noise, and occupancy permitting and standard requirements.
4. Outside business events shall end by 10pm Sunday through Thursday and 11pm Friday and Saturday.

### **Standard Site Conditions**

5. 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.

6. 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.

**Standard Administrative Conditions:**

7. 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.
8. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditions listed above.
9. Non-Severability - If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
10. 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.