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Vote on a request to approve 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.

..ABSTRACT

Action Requested:

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.

Introduction & Background:

Planning Board discussions are in BOLD.

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 support 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 Statesville 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 Statesville 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 caretaker's 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 main parking areas have been relocated to the front side yard of the project property based on a revised site plan submitted to planning staff on April 20, 2016.** 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 and for the 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, other than the relocation of the rear parking area, 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. **With the relocation of the rear parking lot to the front side yard, the Land and Water Resources review shows an even lower BUA than previously shown.** 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 applicant has revised the landscape plan to include a new four foot tall landscaped berm and landscaping in between the new parking lot and the side property line to further shield adjacent property owners from view**

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

The office use and events center limited 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 and does support the Events Center Limited use as well.

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 the property as an Events Center Limited is also supported due to the limiting nature of the approved site plan, septic usage, and conditions as noted below.**

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

The Planning Board met during their regularly scheduled meeting on April 5, 2016. Planning staff reviewed the agenda notes and also noted that since the public hearing, and up to this meeting, several area residents had sent emails supporting the request. Those emails have been made available on the website. The applicant was also present to address questions from the board and provide clarification.

Mrs. Lloyd also presented alternate conditions on time restrictions for events, landscaping, and parking in order to address concerns from adjacent property owners and Board members who attended one of the two on-site visits arranged by the applicant. Those proposed conditions have been updated below. A revised site plan has also been provided which is located on the website. The changes include relocating the rear parking lot to the front side yard, placing a Type A landscape buffer between the new parking lot area and the side property line, and a new 30 foot wide, 220 feet long landscaped four foot tall berm at the rear of the property to further protect adjacent landowners.

The Planning Board had a concern as to whether events outside of the corporate sponsored events for Opus Financial could be limited to non-profits only. Mrs. Lloyd stated they support several organizations and want to help them by providing them a meeting or event space for more reasonable fees or free, but that they also wanted to be able to market their space for others as well. The Planning Board tabled the request in order for staff to contact the county attorney to determine whether the events center limited use can be restricted to non-profits organizations.

Planning staff received an email from the County Attorney, Jep Rose, who stated it could be problematic limiting uses to only certain groups and not others. His recommendation, should the Board recommend approval, was to include conditions on the number of events allowed, amplified music limits, time limits,

etc. The number of people allowed is already limited by the septic system currently approved by the Environmental Health Department which is 177 persons.

The Planning Board also wanted to postpone discussion to allow for the Watershed Review Board to review the text amendment request to add the two proposed uses to Attachment A of the Watershed Protection Ordinance. The WRB met on April 14, 2016 and voted to approve the amendment request with no size limits on buildings/structures. Their reasoning was that the impervious surface limits already restrict how much of the property could have built upon area and that there were other uses already allowed that were similar in nature.

The Planning Board continued discussions for a second meeting on the request to consider proposed changes and receive information on the outcome of the Watershed Review Board consideration of text amendment to the Watershed Protection Ordinance. Planning staff advised the Planning Board that the WRB recommended approval the uses without any limitations on the square footage of any one building.

The Board had a few clarifying questions and voted to approve the request as submitted by the applicant.

Recommendation:

The Planning Board voted 7-1 to recommend adoption of a resolution approving the following consistency statement:

It is the opinion of the Chatham County Board of Commissioners 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.

The Planning Board voted 7-1 to recommend approving the rezoning and adoption of an Ordinance Amending the Zoning Ordinance to rezone parcel 2516 from R-2, Residential, to Conditional District – Neighborhood Business for General and Professional Office and Events Center Limited with the following conditions:

Site Specific Conditions

1. The recommendations of the Chatham County Appearance Commission 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. **This includes the installation of the berm at the rear of the property and the landscaping between the new parking lot and the side property line as shown on the revised site plan. The existing exterior lighting in the back corner shall also be removed.**
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 8pm Sunday through Thursday and 10pm Friday and Saturday and shall not start earlier than 8am per the applicant's request.

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.