



Chatham County, NC

Legislation Text

File #: 23-5011, **Version:** 2

Vote to approve a legislative request by Catalyst Capital Partners LLC to rezone Parcels 2647 (58.03 ac) and 2646 (1 ac) from R-2 Residential to CD-MU Mixed Use for apartments with amenity building and pool and 15,000 sf commercial space located at 11785 US 15-501 N, Baldwin Township.

Action Requested:

Vote to approve a legislative request by Catalyst Capital Partners LLC to rezone Parcels 2647 (58.03 ac) and 2646 (1 ac) from R-2 Residential to CD-MU Mixed Use for apartments with amenity building and pool and 15,000 sf commercial space located at 11785 US 15-501 N, Baldwin Township.

Introduction & Background:

A legislative public hearing was held November 20, 2023. Planning staff presented the request as well as the attorney for the applicant, Nick Robinson. No one signed up to provide input. One letter was received from an adjacent landowner, Mary Ellen Seate, who owns property at 296 Cedar Terrace Rd, a duplex, which is used as a rental property. She had concerns about certain aspects of the development including grading and landscaping. She did not express opposition to the project as a whole but did provide a list of concerns and her comments are available for review on the webpage for this item.

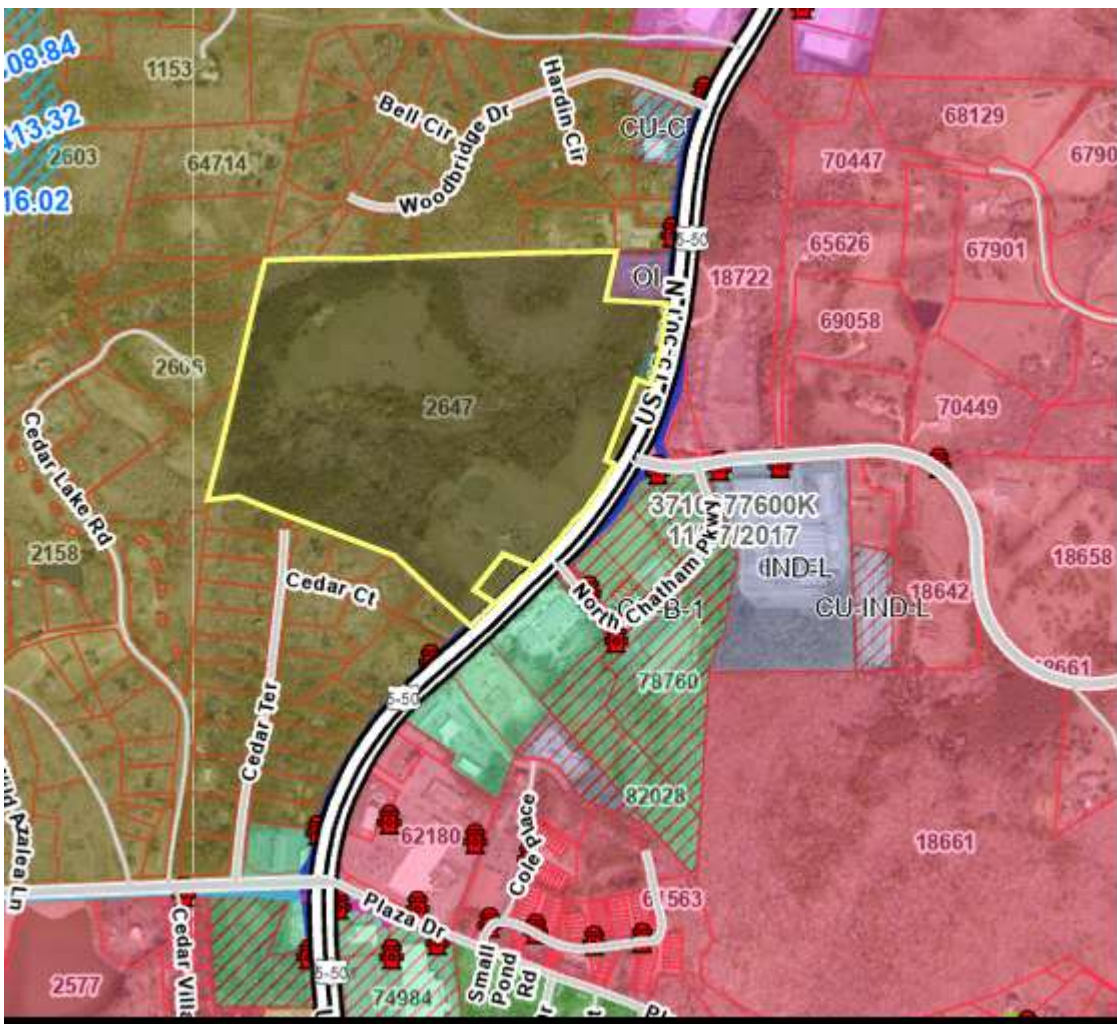
One commissioner asked about the Environmental Review Advisory Committee (ERAC) review of the environmental impact assessment (EIA). Mr. Robinson provided an overview of the ERAC review comments and that the EIA had been updated in response. Most concerns have been addressed in the application materials and site plans. One issue that was brought up by ERAC was a concern about a land clearing and inert debris landfill (LCID), Womble-Arrington LCID, which operated on the property from 1970 until its closer in 2002. The applicant will be applying to NCDEQ Brownfield Program, per a memorandum from Hart Hickman Environmental Solutions, to further ensure there are no current or future issues with the LCID area. This area will not be utilized for the development and will not be disturbed except as may need to be required by NCDEQ if warranted.

Several underground fuel tanks were also mentioned in the ERAC comments and those tanks are located on an adjacent parcel not associated with this request. A gas station operated on property (parcel 62232) and that parcel was obtained by NCDOT for the US 15-501 widening project in the mid- to late-2000s. The station operated from the 1950s until the late 1990s. No closure documentation has been located to indicate whether the tanks are still underground per the environmental summary by Hart Hickman.

The zoning of the property around this property primarily consists of R2 on the north, south, and

west. The zoning of the property along 15-501 near this property includes a mix of R1 (UNC Park and Ride lot), O&I (church), B1 (general business including funeral home, gas station/restaurant), Conditional Use B1 (mix of commercial and office uses).

The image below shows the current zoning in the area surrounding the parcels under consideration for rezoning.



Discussion & Analysis:

When determining whether a rezoning request should be approved under Section 5 Conditional Zoning Districts, the following findings must be supported.

The purpose of a mixed-use district is to allow flexibility by providing for a mix of residential,

commercial, and light industrial uses, although this project proposes no light industrial use. This zoning district does require a minimum of 50 acres to be eligible to apply and this development is 59 acres total with only 7 acres to be developed. Multi-family dwellings are a permitted use within the mixed-use district.

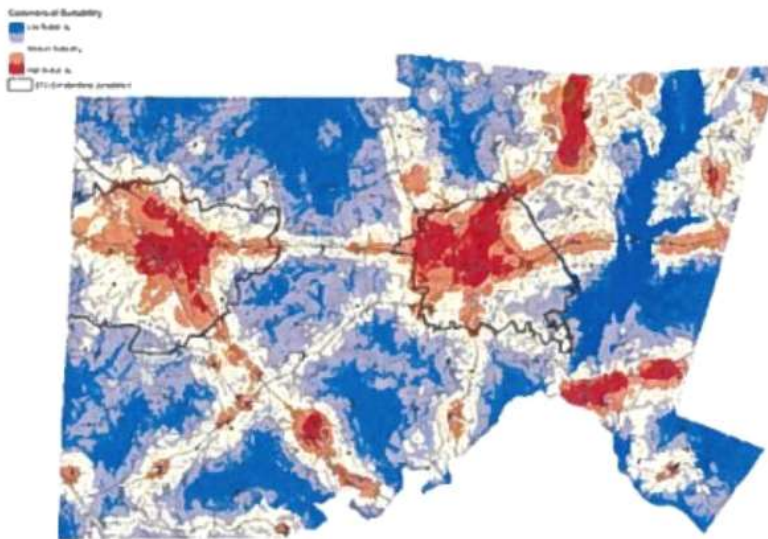
The alleged error in the Ordinance, if any, would be remedied by the proposed amendment with a detailed explanation of such error in the Ordinance and detailed reasons how the proposed amendment will correct the same. No errors in the Ordinance are being claimed. A revision to the current official Zoning Map, if approved, would reflect a new designation of CD-MU.

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 public health, safety, and general welfare.

The application packet includes the following information to address this standard.

- Currently, there are no other mixed-use districts approved in the county's jurisdiction.
- One apartment complex has been approved and constructed within the last two years located within the compact community of Briar Chapel which is regulated under the Compact Communities Ordinance.
- The multi-family community will host about 20-25 full-time employees and the commercial space will employ approximately 20-25 employees.
- More than 50% of this project will remain in open space keeping the developed area on US 15-501 with easy access to and from the site.
- A multi-family development will produce approximately \$450,000 additional tax revenue dollars annually.
- In 2017 when the Plan Chatham was adopted, this area specifically was noted as an area suitable for future commercial development as shown on the below map

COMMERCIAL SUITABILITY

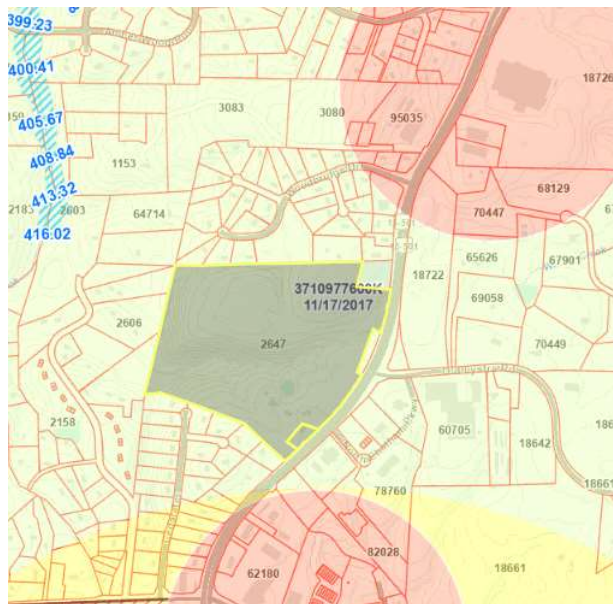


The manner in which the proposed amendment will carry out the intent and purpose of any adopted plans or part thereof.

- Chapter 2 - Issues & Opportunities - pg. 18 Rural Character, approximately 52.5 acres of open space with about 7.1 acres in designated wetlands or riparian buffer areas help to maintain the rural character of the area. The orientation of the proposed buildings ensure that most of the property remains in rural character.
- Chapter 3 - Goals & Objectives - pg 40-41, preserve open space. 52.5 acres of the parcels to remain undeveloped. Pg 40,42, conserve natural resources by the creation of constructed wetlands for the wastewater system as approved by NCDEQ. Preserve and protect the ecosystem through green infrastructure with 100 ft perennial stream buffers and 50 ft riparian intermittent stream buffers, minimizing light pollution, and avoiding/minimizing landscape fragmentation with the use of native plantings. A 20ft Type A opaque buffer will be maintained on the southern boundary of the property to ensure maintaining a rural landscape and protection to the adjoining properties. There is currently existing vegetation that will remain and if needed, supplemental plantings may be added.
- Chapter 4 - Land Use - Policy 2 aims to direct development of any intensity requiring public utilities and other urban services to planned growth areas, pg 62. The property will utilize the county water system and a private wastewater plant will be permitted through NCDEQ.

The image below shows the proposed land use designation on the Future Land Use and

Conservation Plan map which is the Rural.



The property is located in a Rural land use designation on the adopted comprehensive plan map and the description for this designation is provided below. The parcels are also within 500 feet of two Neighborhood Centers and a Compact Residential land use designation and those descriptions are provide below.

RURAL

- Low density development is comprised of single family homes on large lots or in conservation subdivisions as well as some commercial buildings designed to protect function and form of rural character. Pastures, farms and forests dominate the landscape.
- Mix of uses include agriculture, large lot residential, supporting service uses, and home-based & small scale businesses
- Buildings: 1- and 2-story, more for farm buildings
- Streets: rural two-lane ("farm-to-market") roads
- Public open space: conservation easements, protected lands, regional greenway trails, preservation sites (historic and cultural), private space in large lots (POA/HOA)
- Locations:
 - Outside of Centers and Compact Residential
 - Residential areas

NEIGHBORHOOD CENTER

- Grocery-anchored center with complementary retail and service uses, small restaurant.
- Mix of uses include grocery-anchored retail with some restaurants, services, and office uses (+/-30-125K SF commercial)
- Residential uses can include as much as 60% of land area and can include single family homes, patio/cottage homes and attached units.
- Buildings: Mostly 1- and 2-story, some 3 story
- Streets: Private drives functioning as local streets, internal connections to adjacent properties to lessen impact on local roads
- Public/open space: small usable green spaces and courtyards associated with buildings, enhanced storm-water management.
- Locations:
 - North Chatham Village / Chatham Crossing
 - Walmart on 15/501

COMPACT RESIDENTIAL

- Mix of detached and attached residential units complemented by a variety of open spaces. Mix of uses include single family detached and attached units and some multifamily units. Community centers, amenities, recreational uses, schools, and churches may be part of the fabric.
- Buildings: Mostly 1- and 2-story, some 3 story
- Streets: connected system of local and collector streets with access to surrounding development
- Public/open space: Range of types (from large natural resource areas to small pocket parks and gardens)
- Locations:
 - Current extent of Compact Communities Ordinance within 1 mile of community centers (transit potential)
 - Wastewater service (private or proposed public)
 - In close proximity to Employment Centers, but not in conflict with industrial operations
 - In areas not in conflict with high value natural resources

47

The requested amendment is either essential or desirable for the public convenience or welfare.

- The Chatham County Appearance Commission reviewed the site plan, landscape plan, parking, and signage location plans on August 23, 2023 and recommended approval with some planting modifications and species.
- The applicant held a community meeting on July 25, 2023. Questions included traffic, total development footprint, the landscape buffer on the southern side of the development, types of

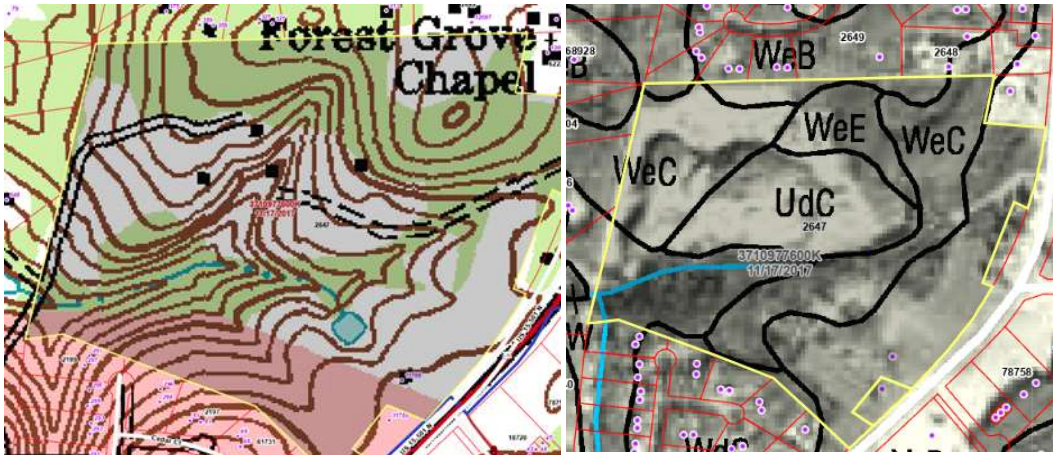
commercial uses, parking, the old landfill area, and tax implications.

- Building setbacks from property lines will be a minimum of 100 ft as required for mixed-use developments under this zoning district.
- There was a question about preserving the existing milk barn and silo and the applicant commented that a structural engineer inspected the structures and did not think preserving or moving them was possible.
- Gannett Flemming provided a Traffic Impact Analysis which states the levels of service needed will remain stable at buildout and well under capacity.
- A review by NCDOT states a requirement for a “bulb-out” across from Old Lystra on the parcel they own so vehicles can make a U-turn to travel south. They will not approve a pedestrian crosswalk from the development to the sidewalk at the park and ride lot across the highway.
- The applicant plans to incorporate the Womble farm elements and concepts into the signage, amenities and/or marketing.

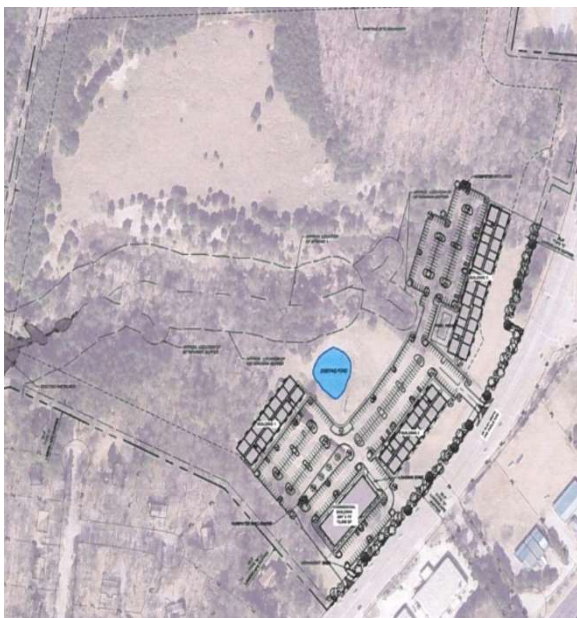
All other circumstances, factors, and reason which the applicant offers in support of the proposed amendment.

- County Water and a private wastewater treatment system (to be permitted through NCDEQ) will provide service to the site.
- Access directly from US 15-501 with a commercial driveway permit to be issued by NCDOT.
- All other required permits will be reviewed and submitted to all required departments.
- The parcels are located within the WSII-Balance Watershed due to being located within the University Lake watershed area. This allows for no more than 12% impervious, built upon area to be developed.
- Per FEMA flood map 3710977600K, dated 11/17/2017 there are no floodable areas on the parcels.
- Stormwater is planned to manage the site based on current regulations by improvements to the existing pond.

The USGS and NRCS maps below show one blueline stream that will require buffering which is shown on the site plan. The Watershed Protection Department will need to conduct a review to verify if the existing pond also requires a 50ft buffer.



Proposed site plan layout



Renderings of the proposed development



The site plan is designed for the development footprint to be as close to 15-501 as possible. The 12% built upon area limit is the most stringent of any of the limits in the county and impacts outside of the development footprint will be limited to stormwater management and on-site wastewater treatment.

How does this relate to the Comprehensive Plan: The development is consistent with the Comprehensive Land Use Plan by being located within an area noted as future commercial development.

The Planning Board reviewed this item during their regular meeting on December 5, 2023 and discussion included the following items:

- **Whether a pedestrian crossing will be provided across 15-501 - NCDOT was contacted about this and will not permit it at this time but will revisit as part of future road improvements on 15-501**
- **Disappointment about NCDOT limitations about adding an access at the intersection of Old Lystra Road and 15-501**
- **If the wastewater treatment system is included in the built upon area calculation - it is included**
- **Recreational amenities - considering a pool, clubhouse and a tot lot which is already**

considered in the built upon area calculation

- **Questions about the land clearing and inert debris landfill - the applicant has submitted an application to the NC Department of Environmental Quality Brownfields Program to determine eligibility for the program**
- **Wastewater treatment system - will be an on-site package plant with a direct discharge to the creek on the property but also considering using a portion for landscape irrigation**
- **Apartments will provide an additional housing option which is currently limited in the county**
- **The 12% built upon area cap limits the uses to what is shown on the site plan plus amenities for residents**

A Board member made a motion to table the request until the next meeting. The motion was seconded but failed 2-7.

The Planning Board by vote of 8-1 recommended approval of the consistency statement and rezoning.

Recommendation:

The Planning Board by a vote of 8-1 recommends adoption of a resolution approving the following consistency statement:

- The development is consistent with the Comprehensive Land Use Plan by being located within an area noted as future commercial development.

The Planning Board by a vote of 8-1 recommends adoption of an Ordinance Amending the Zoning Ordinance of Chatham County to approve a legislative request by Catalyst Capital Partners LLC to rezone Parcels 2647 (58.03 ac) and 2646 (1 ac) from R-2 Residential to CD-MU Mixed Use for apartments with amenity building and pool and 15,000 sf commercial space located at 11785 US 15-501 N, Baldwin Township with the following conditions:

Site Specific Conditions

1. The recommendations from the Chatham County Appearance Commission (CCAC) shall be followed as stated in the minutes and as shown on the site plan. The planning staff and CCAC may conduct routine inspections of the property to ensure compliance with the landscaping requirements.

2. A building permit shall be obtained and remain valid at all times within four (4) years of the date of this approval or the site plan becomes null and void.
3. If application to the NCDEQ Brownfields Program is accepted, a report regarding the status of any requirements or mitigation required by the Brownfields program shall be provided to the Planning Department prior to approving a commercial zoning compliance permit.
4. A review and report by the Watershed Protection Department to determine buffering of the existing pond shall be provided to the Planning Department prior to approving a commercial zoning compliance permit.

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 to or variations from any requirements of this permit must be approved through the Planning Department or other approving board before any such changes can take place.
6. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Land and Water Resources, and Environmental Health Division, etc.) shall be obtained, if required, and copies submitted to the Planning Department as part of the platting process.

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.

