



# Chatham County, NC

## Legislation Text

---

**File #:** 20-3577, **Version:** 2

---

Vote to approve a legislative request by JNNJ, LLC, for a conditional district rezoning from R-1 Residential to CD-O&I for office - business, professional, and governmental, Parcel No. 69884 being 5 acres, located at 10441 US 15-501 N, Baldwin Township.

### **Action Requested:**

Vote to approve a legislative request by JNNJ, LLC, for a conditional district rezoning from R-1 Residential to CD-O&I for office - business, professional, and governmental, Parcel No. 69884 being 5 acres, located at 10441 US 15-501 N, Baldwin Township.

### **Introduction and Background:**

A legislative public hearing was held on September 3, 2020. Planning staff presented the rezoning request, and the applicants, Chris and Yomi Adigun, their development team that includes Wesley Mize, John Hoy, and Jeff Vaughn presented to the board. One person signed up to speak and 3 provided comments prior to the public hearing in support of the project and rezoning request.

### **Discussion and Analysis:**

Conditional Zoning districts are districts in which the development and use of the property is subject to predetermined ordinance standards and 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 property is currently zoned R-1 Residential, properties to the north and west are also R-1 Residential, the property to the south is CD-NB Conditional District Neighborhood Business, and the properties to the east across 15-501 are CU-B-1 Conditional Use B-1. The CD-NB property was approved for the rezoning on February 17, 2020. The CU-B-1 properties to the east is the Chatham Downs shopping center.

A community meeting was held on June 17, 2020. There were 11 attendees total, 2 that are working with the applicant for the rezoning, and 4 attendees declined to sign the roster. Some residents showed support for the project. There was an inquiry about who would manage the second floor office space. The applicants stated that there is no intended tenant at this time.

A meeting with the Chatham County Appearance Commission (CCAC) was held on June 24, 2020. The final site plan is to be conditional if the conditional district request is approved. Before development begins, a final landscaping plan is required and the following modifications were agreed to by the applicant:

- Winterberry to replace Otto Luyken Laurel
- Chinese Fringe tree to Native Fringe tree
- Red Maple, Sycamore, and Bald Cypress in the retention pond

At the public hearing, Commissioner Hales asked about the size of the facility. John Hoy stated it is a total of 18,000 square feet, with a 9,000 square foot footprint, making this a 2 story building. The applicant intends to save as many trees as possible. Wes Mize stated the entrance has been determined by NCDOT. There are 80 parking spaces, proposed 21% Built Upon Area, the building is approximately 300+ feet from the property line to the west, and the lighting is around 0.5 FC 100-200 feet from the property lines, which exceeds ordinance requirements. This creates a significant buffer to the adjoining residents, as well has limited hours of operation (7 am - 6 pm). The building is two stories and is designed to meet current and future needs of the applicant. The first floor will be for the dermatology office, and the second floor will be leased to a tenant.

Jeff Vaughn, president of Agri-Waste Technology, Inc, informed the Board about the proposed septic system. It will be a small conventional system. The system will be at least 30 feet from the property line, and only trees less than 6" in diameter will need to be removed. None of the vegetation within the repair area is proposed to be disturbed. Commissioner Hales asked if this was a standard system. Vaughn said yes, it will be a pump and an equalizing flow system. Commissioner Crawford asked if there will be a tank, and Commissioner Howard asked if the system takes into account the second floor. Vaughn answered yes to both questions.

Scott Christner spoke remotely. He lives at the southwest corner of the property, and had moved here about 6 months ago. He attended the community meeting and appreciates the applicant's efforts to reduce exposure to light and sound. Although the septic is proposed to be as close as 30 feet from the property line, he trusts the contractor. He asked what happens in the buffer area, and Mize responded that it will be undisturbed and keep the existing vegetation.

George Lucier, Chair of the Planning Board, asked how many GPD (gallons per day) and the size of the area. Hoy stated the system is sized for 750-1,000 GPD, which will be equalized over 7 days, and in turn is calculated to be approximately 580-590 GPD. The size of the system is approximately 15,000-20,000 square feet for the drain area and repair. Lucier asked if the properties to the north had been purchased, and if connectivity was planned. Yomi Adigun replied that they did purchase both properties, but there are no intentions to develop the property at this time. John Hoy also made the statement that they intend to keep as much vegetation as possible and will not go in and clear cut the property.

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.** The applicant is claiming no errors in the Ordinance.

**It is the Planning Board and planning staff opinion this finding is met.**

**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.** Currently, the applicant has a medical office located within The Veranda of Briar Chapel off 15-501. This is a commercial area of Briar Chapel, contains multiple business, and has shared parking. The practice has outgrown its current location, and the shared parking has in turn become restricting. Because of this, the Adigun's wanted to remain in the community, but offer a space to fit the size of their business and provide enough parking for their clients and employees. The proposed location is located approximately a mile north of the current location.

There are non-residentially zoned properties adjoining and adjacent to the project area. To the south, the property is zoned Conditional District Neighborhood Business, to the east across 15-501 it is zoned Conditional Use B-1 (Chatham Downs). All other properties are zoned Residential 1.

**It is the Planning Board and planning staff opinion this finding is met.**

**Item #3: The manner in which the proposed amendment will carry out the intent and purpose of any adopted plans or part thereof.** The property is located within a Community Center node on the Comprehensive Land Use Plan Map. This node includes retail hubs along key corridors, and is complemented by local-serving commercial development.

The applicant references supporting goals from the Comprehensive Land Use Plan. They intend to diversify the tax base and generate more high-quality, in-county jobs...reducing out-commuting (Primary Goal of Economic Development, page 53). Additionally, they are locating their practice on a parcel that is completely located within a development node on the Future Land Use and Conservation Plan Map. Economic Development Strategy 2.2 states, "Direct larger-scale retail (and complementary uses such as professional and medical offices) to locate to existing towns and at designated Community and Neighborhood Centers as well as in Employment Centers (page 55).

**It is the Planning Board and planning staff opinion this finding is met.**

**Item #4: The requested amendment is either essential or desirable for the public convenience or welfare.** The applicant states that this project would allow their medical practice to stay within the County and continue to provide essential medical services to Chatham County residents. This project is consistent with Plan Chatham and compatible with adjacent land uses that include retail, restaurant, daycare, office and medical office tenants. This project will increase the non-residential tax base, keep jobs in Chatham County and provide necessary services to residents.

**It is the Planning Board and planning staff opinion this finding is met.**

**Item #5: All other circumstances, factors and reasons which the applicant offers in support of**

**the proposed amendment. (i.e. watershed classification, impervious surface, utilities, infrastructure, etc.).** The project proposes to have a BUA (Built Upon Area) of approximately 21%, with the maximum allowable BUA of 36%, without curb and gutter. The site is designed to provide the most buffer possible for the adjoining residential properties. The parking lot is focused towards 15-501, which creates approximately 225-375 feet of distance. The stormwater controls will meet Chatham County regulations.

The applicant's also have purchased the property directly to the north (parcel 2720) of this project. At this time, there are no intentions to develop, but Planning Staff suggests showing proposed connectivity to this property. This will alleviate turning lanes and access directly off 15-501 which increases safety.

**It is the Planning Board and planning staff opinion this finding is met.**

**By a unanimous vote (9-0), the Planning Board recommends approval of the consistency statement and rezoning request based on all five standards being met.**

**How does this relate to the Comprehensive Plan:**

**Recommendation:**

It is the recommendation of the Planning Board and planning staff that the Board of Commissioners approve the conditional rezoning request based on all standards being supported and adopt a resolution approving the following consistency statement:

**The request to rezone Parcel No. 69884, 5 acres, from R-1, Residential to CD-O&I Conditional District Office and Institutional for medical clinics - inpatient and outpatient care; office - business, professional, and governmental; general, professional, medical, and governmental offices, and complies with the Chatham County comprehensive plan, Plan Chatham. The comprehensive plan includes supporting the retail hubs along key corridors, and is complemented by local serving commercial development within Community Center nodes.**

It is the recommendation of the Planning Board and planning staff that the Board of Commissioners approve the conditional rezoning request based on all standards being supported and adopt an ordinance approving a legislative request by JNNJ, LLC, for a conditional district rezoning from R-1 Residential to CD-O&I for office - business, professional, and governmental, Parcel No. 69884 being 5 acres, located at 10441 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 submitted site plan or revised site plan as required that reflects the adopted design guidelines. 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 two years of the date of this approval or the conditional use permit becomes null and void.

**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 Watershed Protection Division, Environmental Health Division, Building Inspections, Fire Marshal, etc.) shall be obtained, if required, and copies submitted to the Planning Department to the initiation of the operation/business. Standard Administrative Conditions:

5. 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.

6. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditional listed above.

7. Non-Severability - If any of the above conditions is held to be invalid, this approval in it's entirety shall be void.

8. 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.