



# Chatham County, NC

## Legislation Text

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**File #:** 20-3607, **Version:** 2

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Vote to approve a legislative request by Arylex Properties, LLC, for a conditional district rezoning from R-1 Residential to CDCB, Conditional District Community Business, for Appliance Sales and Service, Automotive service stations (including tune-ups, minor repairs, washing facilities, & similar services, Bait and Tackle Shop, Boat, Trailer, and other utility vehicle sales & service, Cabinet Shop, Contractor's plants, storage yards, & staging areas, General, Professional, and Medical Offices, Hardware, appliances, electrical, and other similar retail sales, Landscape Design Business, Lock and Gunsmith, Office (Business & Professional), Parcel No. 17885 being 2.04 acres, located at 12927 US 64 E, New Hope Township.

### **Action Requested:**

Vote to approve a legislative request by Arylex Properties, LLC, for a conditional district rezoning from R-1 Residential to CDCB, Conditional District Community Business, for Appliance Sales and Service, Automotive service stations (including tune-ups, minor repairs, washing facilities, & similar services, Bait and Tackle Shop, Boat, Trailer, and other utility vehicle sales & service, Cabinet Shop, Contractor's plants, storage yards, & staging areas, General, Professional, and Medical Offices, Hardware, appliances, electrical, and other similar retail sales, Landscape Design Business, Lock and Gunsmith, Office (Business & Professional), Parcel No. 17885 being 2.04 acres, located at 12927 US 64 E, New Hope Township.

### **Introduction and Background:**

A legislative public hearing was held on September 21, 2020. Planning staff presented the rezoning request, and the applicants Abel Figueroa and Zak Shipman were available to answer any questions virtually. No one signed up to speak.

### **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 east are also R-1

Residential, the property to the south is CD-IL Conditional District Light Industrial, and the property to the west across are CU-B-1 Conditional Use B-1. The CD-IL property is Builders First Source, a contractor supply business. The CU-B-1 property to the west is Apex Self Storage.

A community meeting was held on July 8, 2020. There were 3 attendees total, 2 being the applicants, and 1 adjoining property owner. The adjoining property owner stated they have no opposition to the proposed development.

A meeting with the Chatham County Appearance Commission (CCAC) was held on May 27, 2020. The final site plan is to be conditional if the conditional district request is approved and the following modifications are agreed to by the applicant:

- Arborvitae to wax myrtle
- Burford holly to Bordeaux vomitoria holly
- Buffer along 64 W will be thinned and replaced with ornamental type plantings.
- Trees over 15' tall would be retained if possible due to potential increased setback from NCDOT
- The already cleared area will be used as the primary field so that the repair field can be left wooded
- Try to preserve hardwoods with diameters of 18" or more and pines 12' or more

Zak Shipman presented the request to the TRC (Technical Review Committee) on September 16, 2020 on behalf of owner, Abel Figueroa. There is a current septic system and well on the property. The septic system will need to be properly crushed and well properly abandoned. A backflow preventer for a service connection will be installed for the proposed connection to the county water line. Mr. Shipman stated that at most the building will be two stories, approximately 25'-30'. If there is a second story, it was stated that it would most likely be office space and not encompass the full footprint of the warehouse. A sprinkler system is required if the square footage is over 12,000 square feet. The proposed size of the warehouse is 10,460 square feet. If there are combustibles stored on site with a ceiling height over 12', then a sprinkler system will be required. No sign is proposed at this moment, but the applicant stated they will adhere to the Chatham County Sign Ordinance.

At the public hearing, Commissioner Hales inquired about the current status of the site and what was proposed. A current and proposed site plan was presented to the Board.

There were questions about the septic area which is shown on the site plan to be at the rear of the property. The closest residence to the proposed septic area is approximately 750 feet away. Commissioner Howard asked about the building size. The footprint of the building is proposed to be 10,460 square feet. The total proposed built upon area for the site is approximately 29,000 square feet, which equates to approximately 31% BUA. Commissioner Dasher inquired about parking, and it was stated that there are parking requirements set forth in the Zoning Ordinance. Depending on the tenants will determine the specific number of parking spaces required.

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.** The applicant states that given the location of this property, it does not match the spirit of the existing development in this area. A portion of this property is included in an Employment Center node on the Future Land Use Plan. There are multiple nonresidential uses with frontage on 64 in this vicinity. Although the applicant does not have potential tenants at this time, it is expected that there will be several full-time jobs generated. The property to the west is D&H RV Center, to the south is Builders First Source, and other adjoining properties are R-1 Residential. Other non-residential properties in this area include The Extra Garage Storage Center and Highway 64 Boat & RV Storage.

**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 majority of the property is located in a rural designation, but there is a portion that is within an Employment Center node on the Future Land Use Map. The applicant references page 20 of the Comprehensive Land Use Plan, which states that the county collects more tax revenue on commercial over residential properties.

From chapter three of the Comprehensive Land Use Plan, the applicant references Objectives 3 & 4 on page 41 which states: promote a compact growth pattern by developing in and near existing towns, communities, and in designated, well planned, walkable, mixed use centers; and diversify the tax base and generate more high-quality, in county jobs to reduce dependence on residential property taxes, create economic opportunity, and reduce out-commuting.

From chapter four of the Comprehensive Land Use Plan, the applicant references multiple policies: Economic Development Policy 2 Strategy 2.1 (page 53), Strategy 2.3 (page 55); Land Use Policy 6 Strategy 6.1 (page 67). These Economic Development strategies state that small-scale retail development, service, office, flex space, and other small businesses are encouraged, and to consider zoning to allow distribution and warehouse uses along major transportation corridors. The Land Use Policy strategy mentioned by the applicant's states: amend land development regulations to establish location standards for commercial development that pushes such development to nodes.

**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 there will not be a large increase in traffic, estimating between 125-400 trips per day. The current AADT for US HWY 64 is 24,000 TPD. Peak traffic is anticipated to be during standard AM and PM peak hours due to employee movements at the facility.

The applicant shows on their site plan that they will meet the landscaping requirements set forth in the Chatham County Zoning Ordinance. They are proposing a 20' Type A buffer on the eastern and northern property lines, and a 20' Type C buffer along HWY 64. No lighting plan has been submitted, but the applicant states to adhere to the lighting requirements in the ordinance. They state the lights are proposed to be LED with a maximum height of 30' for full cut off and 15' maximum for non-directional fixtures. No significant noise is anticipated, and no chemicals will be stored on site.

A freestanding sign is proposed for the facility to be less than 30' with a 100 square foot maximum for the size. The sign has not yet been developed, but will adhere to the Chatham County Zoning Ordinance.

**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.).** There is an existing water line that the applicant intends to utilize. There has been a preliminary evaluation prepared to determine the suitability of the soils for a septic system. The septic system and repair area is proposed to be located at the rear of the property and it is anticipated that the demand will be less than 1,000 GPD (gallons per day). There is a planned stormwater device as a bioretention cell or wet-detention basin that the applicant states will meet the Chatham County Watershed Protection Ordinance.

**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 rezoning request based on all five standards can be 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. 17885, 2.04 acres, from R-1, Residential to CD-CB Conditional District Community Business for appliance sales and service, automotive service stations (including tune-ups, minor repairs, washing facilities, & similar services), bait and tackle shop, boat, trailer, and other utility vehicle sales & service, cabinet shop, contractor's plants, storage yards & staging areas, general, professional, and medical offices, hardware, appliances, electrical, and other similar retail sales, landscape design business, lock and gunsmith, office (business & professional), 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 Arylex Properties, LLC, for a conditional district rezoning from R-1 Residential to CDCB, Conditional District Community Business, for Appliance Sales and Service, Automotive service stations (including tune-ups, minor repairs, washing facilities, & similar services, Bait and Tackle Shop, Boat, Trailer, and other utility vehicle sales & service, Cabinet Shop, Contractor's plants, storage yards, & staging areas, General, Professional, and Medical Offices, Hardware, appliances, electrical, and other similar retail sales, Landscape Design Business, Lock and Gunsmith, Office (Business & Professional), Parcel No. 17885 being 2.04 acres, located at 12927 US 64 E, New Hope 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.
3. All material storage shall be inside the structure/s on site. No outdoor storage is permitted.

Standard Site Conditions:

4. 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.
5. 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:

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