



# Chatham County, NC

## Legislation Text

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**File #:** 21-3729, **Version:** 2

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Vote on a request to approve a quasi-judicial request by Matthew Malone, for a Conditional Use Permit Revision for a site plan change and request additional uses, Parcel 2759 being approximately 2.29 acres, located at 9553 US 15-501 N., Baldwin Township.

### **Action Requested:**

Vote on a request to approve a quasi-judicial request by Matthew Malone, for a Conditional Use Permit Revision for a site plan change and request additional uses, Parcel 2759 being approximately 2.29 acres, located at 9553 US 15-501 N., Baldwin Township.

### **Introduction & Background:**

A quasi-judicial public hearing was held on November 16, 2020. Planning staff presented the request, and the applicant, Matthew Malone for Nature Trails, was present to answer any questions. Planning staff received several inquiries about what was proposed, but no opposition or support was voiced. No one signed up to speak.

Commissioner Hales had multiple questions about the site to clarify why the request was being made. It was explained that the site plan had changed without proper approvals, and that additional uses are being requested to improve the future marketability of the property. It was also noted from planning staff that several uses that were requested are already permitted with the original approval, or permitted by right in that zoning classification.

Planning Board Chair Lucier asked about the uses as well, and the same explanation was given (at this time, we had been having technical difficulties and those in the room next to us had not heard the explanation of uses).

The property was rezoned to CU-NB on January 19th, 2010. The uses requested and approved were antique shops; art supply retail sales; gift shops; interior design shops; mixed use building; office-business, professional and governmental; retail stores and personal service shops similar to those listed dealing in direct consumer and personal services; and secretarial and job service offices.

The additional uses requested are appliance sales and service; arts and crafts fabrication and related sales; banks, savings and loans, finance companies, credit agencies and similar financial institutions; beauty shops/salons; bicycle sales and repair; blacksmith or horseshoeing shops; book, stationary and office supply stores; cabinet shops; carpeting, flooring, tile and stone products sales; churches and other places of worship; clothing shops; congregate care facilities; contractor's plants or storage yards and staging areas; fabric shops; florist shops; furniture stores; general, professional, and medical offices; heating, plumbing, electrical, cabinet and similar shops; jewelry and watch sales and

service, goldsmith; landscape design business; office - engineering supply and similar sales and services including blueprinting, photostatting and similar services; paint retail shops; pottery (hand crafted) and related retail; printing and publishing; upholstery, and paper hanging and decorator shops.

Some uses requested in the application are already permitted uses, and 3 uses requested do not require to be included in rezoning requests.

There have been changes to the site plan which is why the applicant has proposed the CUP revision before you tonight. Because the original approval has not been changed since 2010, and the county is rapidly growing, the applicant and landowner are wanting to keep the property in line with the uses around it.

### **Discussion & Analysis:**

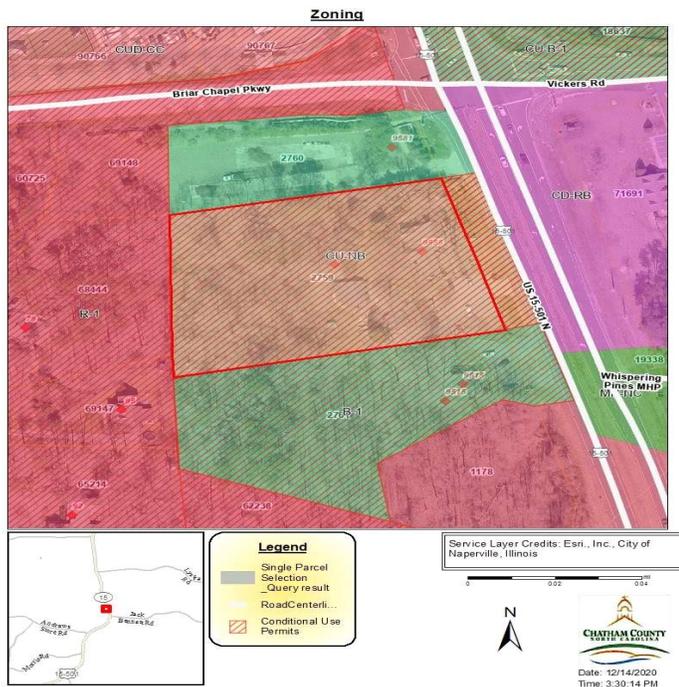
In reviewing and considering approval of a Conditional Use Permit, the Board must find that all of the findings of facts shall be supported. Per the Zoning Ordinance, "In considering an application for a conditional use permit or revision to a CUP, the Board of Commissioners shall give due regard that the purpose and intent of this Ordinance shall be served, public safety and welfare secured and substantial justice done. If the Board should find, after public hearing, the purpose conditional use permit or revision thereof should not be granted, such proposed permit shall be denied."

A community meeting is not required for revisions to a CUP per the Zoning Ordinance. The applicant provided a site plan for the Chatham County Appearance Commission on August 26, 2020. He was not present, but the site plan showed supplemental vegetation along the western border of the most recent development (gravel parking lot). The members suggested specific species and how many of each should be planted, with spacing requirements. Staff gave this information to Matt Malone, and he returned a site plan showing the suggestions. The CCAC then approved this site plan.

At the regularly scheduled Planning Board meeting on January 5<sup>th</sup>, this item was discussed. Ms. Weakley motioned to table the discussion until a stream determination was made on the property. The motion passed unanimously, 8-0. On January 15, 2021, Drew Blake from the Watershed Protection department visited the property for a stream determination. It was discovered that there are two intermittent stream segments and one perennial stream segment. The report has been included as an attachment. In discussions with Mr. Blake he indicated that it was difficult to tell if the parking lot expansion encroached into the 50' Jordan buffer associated with the water features and that a survey was recommended. A condition has been added to address this item.

**Finding 1 - The use requested is among those listed as an eligible conditional use in the district in which the subject property is located or is to be located.** The applicant answered N/A, as this use is allowed as a CUP within R1 zoning. **It is the Planning Board and planning staff's opinion this finding is met.**

The following map shows the current zoning of the property.



**Finding 2 - The requested conditional use permit or revision to the existing permit is either**

**essential or desirable for the public convenience or welfare.**

The applicant will leave existing vegetation, and supplement along the western border of the new area of the gravel parking lot. Previously, the rear of the property had limited access for emergency services, but with the expansion, this has been made more accessible and increased safety.

The applicant is also requesting additional uses for the property. The current Conditional Use Permit was approved in 2010, and has not been revised since. The area has increased in development, both commercial and residential since, and it is the desire of the property owner and applicant to improve potential marketability of the property, while also keeping the site in compliance with all other regulations.

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

**Finding 3 - The requested permit will not impair the integrity or character of the surrounding or adjoining districts, and will not be detrimental to the health, safety or welfare of the community.**

The property has been in non-residential use since 2010. The request was initiated by a complaint about development occurring on site. After planning staff further reviewed the original approval, it was determined that a revision is required for any change to the site plan. It was suggested to review the current table of uses in the Zoning Ordinance to add/remove any uses as the applicant saw fit. Uses were added in order to improve future marketability for the site.

As a result, if approved, the applicant is projected to add 3 full-time jobs.

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

**Finding 4 - The manner in which the proposed amendment will carry out the intent and purpose of any adopted plans or part thereof (i.e. Comprehensive Plan, Chatham/Cary Joint Land Use Plan, etc.) You must note specifics from the plan/s giving reference to page number and section.**

The applicant's business, Nature Trails, LLC, will support the preservation and protection of the rural character and natural beauty of the lands, conserve natural resources, and provide recreational opportunities and access to open space (Comprehensive Plan page 40).

The applicant references multiple strategies and policies that support the request. Economic Development Strategy 6.3 is supported by increasing tourism and recreation opportunities and amenities. Natural Resources Primary Goal of conserving natural resources is supported because the trail development is constructed with minimal equipment, with much of the development being done by hand. All goals of Parks and Recreation (provide recreational opportunities and access to open space, foster a healthy community, and conserve natural resources) will be met with the approval of the revision request.

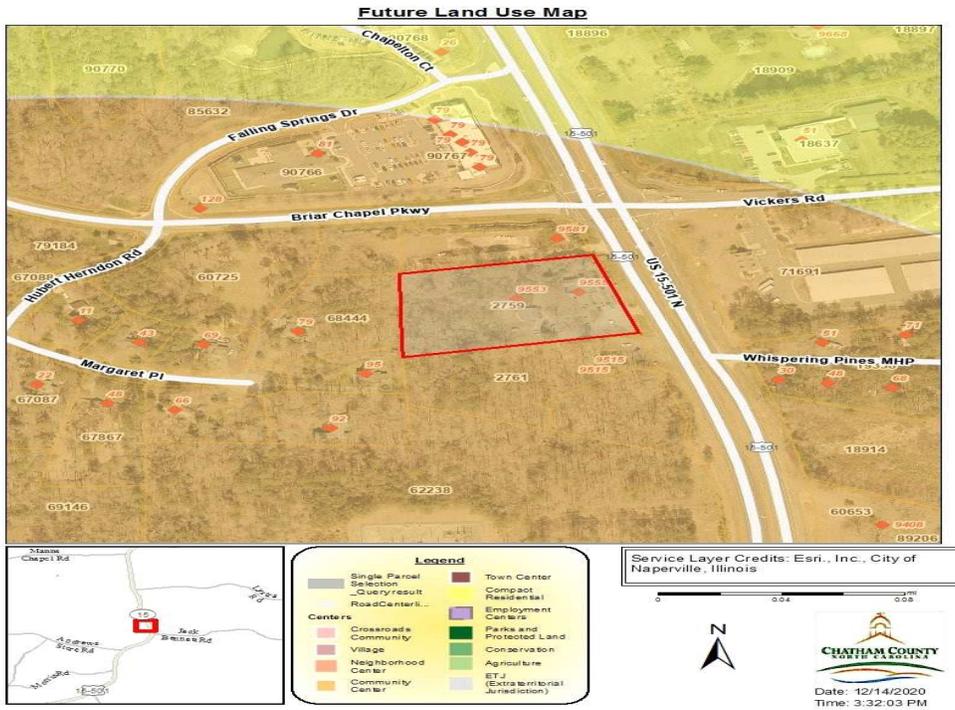
Additionally, the applicant references Economic Development Policy 6 on page 57 which encourages

“support entrepreneurship and new businesses that diversify the local economy and capitalize on the unique assets of Chatham County”.

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

*The following map shows the property and surrounding properties within a rural designation on the*

*Comprehensive Land Use Plan Map.*

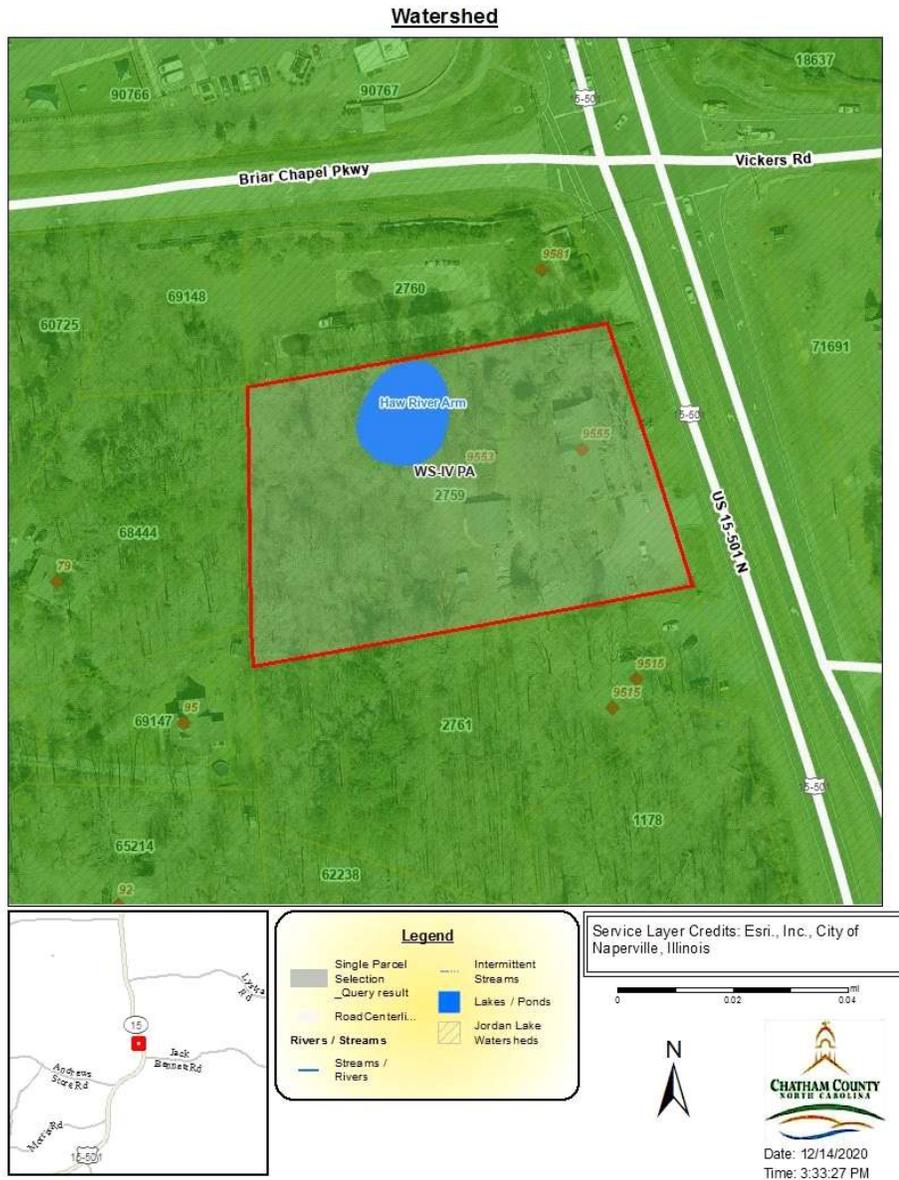


**Finding 5 - Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary facilities have been or are being provided consistent with the County’s plans, policies, and regulations.**

All utilities are existing, the access to the rear of the property is improved with the new development, this site still meets watershed protection requirements, and the applicant’s business will be providing recreational opportunities for Chatham County, the surrounding area, and internationally.

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

*The Watershed/Hydrology map below shows that the property is located within the WS-IV PA Jordan Lake Watershed.*



**Based on all five findings being met, the Planning Board and planning staff supports the conditional use permit revision request.**

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

Page 57 Economic Development Policy 6 states, "Support entrepreneurship and new businesses that diversify the local economy and capitalize on the unique assets of Chatham County". This project

diversifies the local economy and capitalizes on the unique assets of Chatham County as there is no similar use currently, as well as including additional uses to support future marketability of the property.

Page 58 Economic Development Strategy 6.3 states, "Support increased tourism and recreation opportunities and amenities, particularly promoting sustainable tourism and authentic experiences". This applicant's business is to provide recreation opportunities, and the additional uses requested are in sync with the development of the surrounding area.

**Recommendation:**

The Planning Board by unanimous vote (10-0) recommends approval of a resolution approving an amendment to the conditional use permit to the Board of Commissioners 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. The planning staff and CCAC may conduct routine inspections of the property to ensure compliance with the landscaping requirements.
2. The water features that identified in the Riparian Buffer report dated January 19, 2021 and conducted by Drew Blake must be surveyed and include the required buffers and any potential encroachments into the buffer. Any encroachments must be remediated pursuant to the Jordan buffer rule requirements in coordination with the Chatham County Watershed Protection Department.
3. A building permit shall be obtained and remain valid at all times within two (2) years of the date of this approval or the conditional use permit revision becomes null and void.
4. All existing conditions shall remain in effect, except as modified by this conditional use permit amendment.

**Standard Site Conditions**

1. 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.
2. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Land and Water Resources, 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**

1. 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.
2. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditions listed above.
3. Non-Severability - If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
4. 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.