



# Chatham County, NC

## Legislation Details (With Text)

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<b>File created:</b>	6/1/2018	<b>In control:</b>	Planning
<b>On agenda:</b>	8/20/2018	<b>Final action:</b>	8/20/2018
<b>Title:</b>	Vote on a request by the Chatham County Board of Commissioners to deny the rezoning of Parcel No. 60279, being 10.12 acres, Oakland Township, located on Mays Chapel Road, from R-1 Residential to IL-Light Industrial.		
<b>Sponsors:</b>			
<b>Indexes:</b>	Comp Plan Goal 4: 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.		
<b>Code sections:</b>			
<b>Attachments:</b>	1. More Information from Planning Department Website		

Date	Ver.	Action By	Action	Result
8/20/2018	2	Board of Commissioners	adopted	Pass
8/20/2018	2	Board of Commissioners	adopted	Pass
6/18/2018	1	Board of Commissioners	approved	Pass

Vote on a request by the Chatham County Board of Commissioners to deny the rezoning of Parcel No. 60279, being 10.12 acres, Oakland Township, located on Mays Chapel Road, from R-1 Residential to IL-Light Industrial.

### Action Requested:

Vote on a request by the Chatham County Board of Commissioners to deny the rezoning of Parcel No. 60279, being 10.12 acres, Oakland Township, located on Mays Chapel Road, from R-1 Residential to IL-Light Industrial.

### Introduction & Background:

After nearly two years of discussion and study, on August 15<sup>th</sup>, 2016, the Chatham County Board of Commissioners voted to zone the formerly unzoned portions of the county to R-1 and R-5 residential. The Comprehensive Plan specifically supports "rezonings for businesses uses or properties made non-conforming by the extension of zoning in 2016." (Land Use Policy #7, Strategy 7.2). Consequently, prior to the adoption of county-wide zoning, the Chatham County Planning Department sent a business listing form to every property owner in the unzoned portion of the county. Nearly 13,000 forms were mailed. The business listing form asked property owners to list any non-residential use of their land, so the Planning Department could properly document any non-conforming uses and prepare for future rezonings. The Planning Department received over 1,000 forms. Approximately 300 forms described non-conforming businesses, while the remaining 700 listed either agricultural uses of the land (which were exempted from zoning regulations via the bona fide farm exemption) or otherwise permitted uses, such as a residence. Aerial images of these 300

businesses were captured, as well, in order to further establish non-conforming status.

### **Discussion & Analysis:**

In addition to mailing and documenting business listing forms, Planning staff compiled tax and fire inspection records to determine if there were any other businesses in the formerly unzoned portions of the county. After combining tax and fire inspection records, along with the business listing forms, staff determined that 573 parcels in the formerly unzoned part of the county may contain non-conforming uses or businesses. In order to confirm that these non-conforming uses actually existed, staff performed site visits to each parcel, spoke with the property owners, and documented the current use of the property. After several months of visiting properties, further research by staff, and meeting with property owners, the following observations were made by staff:

- 252 parcels are eligible for rezoning to a non-residential zoning district
- 53 parcels are eligible for the issuance of a home occupation permit (HOP)

268 parcels are not eligible for rezoning or issuance of a home occupation permit

During the site visiting process, the interior of multiple parcels were inaccessible to staff due to “No Trespassing” signage, the presence of loose dogs, or physical barriers, such as locked gates, fences, or washed out roads. However, the tax data, aerial imagery, and some visual confirmation from the site visits allowed staff to recommend rezonings, issuance of HOPs, or maintenance of the status quo for these parcels.

Based on the observed use, staff determined which zoning classification would be most appropriate to consider to use for rezoning the property. Since many uses are permitted in multiple zoning classifications, staff recommended that the parcels be eligible for rezoning to the least intensive permitted zoning classifications possible. For example, if a use were allowed in both light and heavy industrial zoning district, then staff recommended that the parcel should be eligible to be rezoned to the light industrial classification. Furthermore, some uses are permitted in an R-1 or R-5 district with the issuance of Conditional Use Permit. It should be noted that many of the non-conforming uses on parcels eligible for rezoning do not occur across the entirety of the parcels. Many uses are limited to a single building or small portion of the parcel.

After the inventory of businesses was completed, the next step was to meet with property owners eligible for a rezoning to determine if they wish to rezone their property, and if so, how much of the property they would like to rezone. Planning staff contacted property owners and scheduled these meetings. Additionally, planning staff coordinated with representatives from the Chatham County Tax Department, as the issue of changes in tax value was likely to arise. In addition, on March 1<sup>st</sup>, at the direction of the Board of Commissioners, Planning staff also sent a letter to 35 property owners who have vacant buildings on their property in the formerly unzoned portion of the county, offering them the opportunity to request a rezoning to any zoning district. These vacant buildings had been previously identified by Planning staff during site visits in the summer of 2017.

Out of 252 properties that were identified as having a non-conforming use, 52 parcels (of which, this

item contains 1 parcel) were requested by their owners to be rezoned, 24 parcels were requested to remain in their current zoning district, and 176 parcels' owners did not respond to the letter regarding rezoning, yielding a response rate of 30%. Out of 51 Home Occupation permit applications sent out to properties that qualified for an HOP, 22 have been completed and returned to Planning staff.

A GIS web application (

[https://chathamncgis.maps.arcgis.com/apps/webappviewer/index.html?](https://chathamncgis.maps.arcgis.com/apps/webappviewer/index.html?id=8a3a205b2dbd41459379332f46537df3)

[id=8a3a205b2dbd41459379332f46537df3](https://chathamncgis.maps.arcgis.com/apps/webappviewer/index.html?id=8a3a205b2dbd41459379332f46537df3)) has been created identifying the 52 properties, and the list of the 52 parcels requested to be rezoned has been included as an attachment. It should be noted that Planning staff will most likely receive more requests for eligible businesses to be rezoned in the future. Planning staff will follow up with the Board of Commissioners later this year to request a public hearing for those additional rezonings.

On April 16<sup>th</sup>, 2018, the Board of Commissioners held a Public Hearing on the business rezonings. One member of the public, Anthony Antonelli, spoke against the rezoning of parcel 60279 (1815 Mays Chapel Rd), stating that he was an adjoining property owner and did not want industrial activity in a rural area (a map has been included as attachment 1 for reference). However, based on the description of the area by the speaker and other residents who spoke in opposition, Planning staff initially inferred that the speaker was referencing the rezoning request at parcel number 90745 (1506 Mays Chapel Rd), which is also located on Mays Chapel Road and under the same ownership. The Board voted to forward the item to the Planning Board for a recommendation.

The Planning Board discussed the item during their May 1, 2018 meeting. The same individual who spoke at the April BOC meeting spoke again and repeated his concerns about having industrial activity near his land. However, based on the description of the area by the speaker, both the Planning Board and Planning staff inferred that the speaker was referencing the rezoning request at parcel number 90745 (1506 Mays Chapel Rd). Therefore, the Planning Board voted 9-0 to recommend rezoning of parcel 60279 (1815 Mays Chapel Rd) from R-1 Residential to IL-Light Industrial, as it was included in the batch of formerly unzoned parcels that were voted on as a group. It was not until after the meeting that Planning staff were contacted by another resident who lives on Mays Chapel Road that the speaker was referencing the parcel in question.

During the June 18, 2018 Commissioners meeting the Board voted unanimously to return this item to the Planning Board for additional review due to the confusion about the public comments received. Excerpts of the April 16, 2018 Commissioners minutes and May 1, 2018 Planning Board minutes are included as attachment 2 and Mr. Antonelli's comments are highlighted for reference.

The Planning Board resumed discussion of this item during their July 10, 2018 meeting. Several property owners in the neighborhood where this property is located spoke during the meeting and provided the following comments: light industrial zoning is dangerous in a residential neighborhood and exposes the community to a variety of issues that are not compatible with residential use of property; the prior use for bottled water distribution was not a problem, but light industrial zoning has the potential to allow incompatible uses; and the commissioners zoned the area residential because of the existing residential uses in the neighborhood. The owner, Robert Smith, also spoke and commented that he moved to the county in 1994 and opened a business that became successful; he supported the community and a local church; there is a 4,800 square foot metal building on the property that has been used for business use and that is the best use of the property in the future; residential use of the property is not realistic based on the existing building; he planted trees on the rear of the property years ago to protect the neighboring property owners; and that if the rezoning is not approved he would consider it eminent domain since no-one would want to use the property for residential use. Mr. Smith was asked if the property was currently being used for by a computer parts supply company and he indicated that the tenant had moved out of the building.

Planning Board discussion included that if the property is not rezoned then the non-conforming provisions of the Zoning Ordinance would apply; that if the property was not used under the non-conforming provisions within a certain timeframe then the non-conforming status would become void; that although Mr. Smith owned two properties on Mays Chapel Road that were considered for rezoning, each property should be considered on its own merits; there is no compelling reason to deny the request since the Commissioners offered business property owners the option to rezone at no cost to them; concern about the impact of the potential loss in value if the property is not rezoned; the property is approximately 10 acres and 1 acre has been used for the bottled water distribution business; and the Commissioners updated the table of uses in the Zoning Ordinance to require more conditional use permits to cover uses of concern.

After a lengthy discussion the Planning Board voted 7-2 to recommend a consistency statement that the rezoning was inconsistent with adopted plans and voted 7-2 to recommend denial of the rezoning.

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

Goal #4: 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. Specifically, Land Use Policy #7, Strategy 7.2 supports “rezonings for businesses uses or properties made non-conforming by the extension of zoning in 2016.”

**Recommendation:**

The Planning Board by a vote of 7-2 recommends adoption of a resolution approving the following consistency statement:

**The request for rezoning of Parcel No. 60279, located on Mays Chapel Road, being 10.12 acres, from R-1 Residential to IL-Light Industrial is not in compliance with Plan Chatham, it impairs the integrity of the neighborhood and is inconsistent with the spirit of the Board of Commissioner goals and health goals.**

The Planning Board by a vote of 7-2 recommends denial of an ordinance amending the Zoning Ordinance to rezone Parcel No. 60279, located on Mays Chapel Road, being 10.12 acres, from R-1 Residential to IL-Light Industrial.