



Chatham County, NC

Legislation Text

File #: 17-2281, **Version:** 2

Vote on a request by Stephen Gangemi to rezone property located at 10295 US 15-501 N, Parcel No. 66505, from R1, Residential to CD-O&I, Conditional District Office & Institutional and convert a single-family residence into general and professional offices for a chiropractic business.

Action Requested:

A request by Stephen Gangemi to rezone property located at 10295 US 15-501 N, Parcel No. 66505, from R1, Residential to CD-O&I, Conditional District Office & Institutional and convert a single-family residence into general and professional offices for a chiropractic business.

Introduction & Background:

A legislative public hearing was held August 21, 2017. Planning staff presented the request. No one spoke on the matter. The item was referred to the Planning Board for review and recommendation.

Discussion & Analysis:

Conditional Zoning districts are districts in which the development and use of the property is subject to predetermined ordinance standards and the 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 R1, Residential, and the adjoining properties to the north, south, and west are also zoned R1, Residential. The properties on the opposite side of US 15-501N are zoned Conditional Use Business (Chatham Downs Shopping Center) and R1, Residential with a conditional use permit for a furniture store. The watershed designation is WS-IV Protected Area and is also in Jordan Lake Drainage. The watershed designation allows for non-residential uses with a built upon area limit ranging between 24% and 36%.

The applicant held a community meeting, as required by the zoning ordinance, on May 31, 2017 at the site. No adjacent or adjoining landowners attended and no issues were provided to the applicant.

The applicant met with the Chatham County Appearance Commission (CCAC) on May 24 2017. The CCAC was very pleased with the proposed landscape plan. The applicant is retaining the majority of the existing trees and vegetation. Some additional fill-in landscaping is proposed where needed. The existing privacy fence has been extended per the CCAC's request and this was their only additional recommendation.

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 error in the Ordinance.

This standard is supported and recommended for approval.

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. Per the applicant's research included in the application packet, this area is growing at a 2.83% rate with more than 21,000 people within a five mile radius and over 114,000 within ten miles of this location. Housing is rapidly growing, especially within subdivisions off of US 15-501 (e.g. Briar Chapel and Chatham Park). With the current increased residential numbers and those to be constructed and occupied, the need for local medical services is and will continue to increase.

This standard is supported and recommended for approval.

Item #3: The manner in which the proposed amendment will carry out the intent and purpose of any adopted plans or part thereof by encouraging the expansion and support of current business located within the county. Per the applicant, This property fits in nicely with Chatham County's vision for land conservation and development. The current woodlands will be protected, as will be the natural underground spring which is located on the south side of the property. The rural character of the house and land are suitable and ideal for this small business; the current structure will be used with slight modifications within and the land will be maintained and improved with native trees, plants and shrubs.

The location of the property is on the opposite side of US 15-501 N from Chatham Downs shopping center and is located within a community center commercial in the proposed Comprehensive Land Use Plan, which is not adopted at this time. This area has been transitioning from rural and residential uses to commercial, as has occurred along several areas of the 15-501 corridor from Chapel Hill to Pittsboro. The current Land Use and Development Plan states on Page 12 that commercial is to be cited along major highways in clusters that retain rural crossroads or village

character and should be integrated with other nearby development.

Page 34 speaks specifically on the US 15-501 North corridor as an area that may link to infrastructure and build on the economic activity south of Chapel Hill.

This standard is supported and recommended for approval.

Item #4: The requested amendment is either essential or desirable for the public convenience or welfare. The applicant states, there is only one chiropractic office within a five mile radius of this property, therefore, a rezoning of this area will allow easier access to chiropractic care. There is a high demand for chiropractic services in the proposed location as approximately 8% of residents within the five mile radius (and 7.4% within ten miles) have visited a chiropractor within the last twelve months (see report in the application packet) (For comparison, a dermatologist is at 12.4% and a physical therapist is at 6.3 %.) Within a fifteen mile radius the demand for a chiropractor exceeds other health professions.

This standard is supported and recommended for approval.

Item #5: All other circumstances, factors, and reasons which the applicant offers in support of the proposed amendment include The practice does not require roadside advertisement; therefore the sign facing US 15-501 will be minimal. A 6'X2' sign approximately 6' high is proposed, either double sided, or two single-sided signs at an angle, per the visibility from both north and south 15-501 traffic.

The existing well and septic will be used and an operations permit revision from Environmental Health will be required if the rezoning is approved. The current septic area has been located is distant from any proposed land changes, including parking spaces.

The primary new built upon area will be the parking areas. Ten parking spaces are required per the size of the building and eleven are proposed. There will be eight parking spaces parallel and adjacent to the driveway, four of which will be concrete (one of which is ADA compliant) and the other four will be gravel. This is essentially the most significant change to the grounds and a few trees will need to be removed from that area, however other areas of current existing gravel parking will be replaced by trees, plants, and gardens. There will also be three gravel parking spaces in the front of the building. Concrete sidewalks will join the parking areas to the building, and possibly a gravel walkway rather than concrete from the back four spaces to the back of the building (staff parking/entrance).

This standard is supported and recommended for approval.

During the agenda review with the Planning Board Chair and Vice-Chair, it was asked if a less intense conditional zoning district could be requested, which in this case would be CD-O&I (conditional district office and institutional). The Planning Director received confirmation from the county attorney, Jep Rose, this could be done provided the applicant agreed. He indicated that as long as the use still fell within the allowed uses in an O&I district, the public hearing notification stated that changes could occur, and there were no changes to the site plan, it was permissible to move to a

less intensive district.

The Planning Board met on September 5, 2017 and reviewed the request. By vote of 7-2, they recommended approval as conditioned below. Planning staff confirmed with the applicant that the CD-O&I zoning classification was acceptable and all other information in the application remains unchanged.

Some concerns noted by planning board members were increased traffic with more commercial sprawl on the US 15-501 corridor and potential effects on the stream shown on the lower southwest corner edge of the property.

Support for the project included a low volume practice, continuation of the rural character of the area by maintaining a majority of the existing mature vegetation and utilizing the existing house to be converted into the practice.

A minority report was also provided by the Planning Board members voting in opposition to rezoning request and it is attached for reference.

The Planning Board and planning staff recommend approval of this request with the following consistency statement and stated conditions as noted below.

Recommendation:

The Planning Board by vote of 7-2 recommends the Board of Commissioners adopt a resolution approving the following **Consistency Statement**:

It is the opinion of the Chatham County Board of Commissioners that the rezoning request for Parcel No 66505 is consistent with the goals and objectives of the Land Use Plans of Chatham County by supporting business growth that fills a need for medical services in a heavily populated residential area and is approved. The Land Conservation and Development Plan recommends that commercial development is to be cited along major highways in clusters that retain rural crossroads or village character and should be integrated with other nearby development. The proposal also protects ground and surface waters with no more than 36% development allowed without curb and gutter or 24% if curb and gutter with limited land disturbance on the site to maintain the rural character of the property.

The Planning Board by a 7-2 vote recommends adoption of an ordinance amending the Zoning Ordinance approving the request by Stephen Gangemi to rezone property located at 10295 US 15-501 N, Parcel No. 66505, from R1, Residential to CD-O&I, Conditional District Office & Institutional with the following conditions:

Site Specific Conditions

1. The recommendations of the Chatham County Appearance Commission shall be followed. Existing vegetation should be preserved and maintained as reasonably necessary and as allowed

by development of the site. Required plantings shall be installed by the next optimal planting season following the issuance of the first building permit.

2. A building permit shall be obtained and remain valid at all times within two (2) years of this approval or it shall become 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 Erosion & Sedimentation Control, Environmental Health Division, Stormwater Management, Building Inspections, Fire Marshal, etc.) shall be obtained, if required, and copies submitted to the Planning Department prior 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 conditions listed above.
7. Non-Severability - If any of the above conditions is held to be invalid, this approval in its 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.