



# Chatham County, NC

## Legislation Text

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**File #:** 18-2509, **Version:** 2

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A request by O'Mara Landscaping & Lawncare, Inc. to rezone 10 acres of the 31.89 acre tract from R -1 Residential to CD-CB Conditional District Community Business, identified as Parcel 2691, located at 4590 Mann's Chapel Road, Baldwin Township for a landscaping and lawn care contractor's business.

### **Action Requested:**

Vote on a request by O'Mara Landscaping & Lawncare, Inc. to rezone 10 acres of the 31.89 acre tract from R-1 Residential to CD-CB Conditional District Community Business, identified as Parcel 2691, located at 4590 Mann's Chapel Road, Baldwin Township for a landscaping and lawn care contractor's business.

### **Introduction & Background:**

A legislative public hearing was held on February 19, 2018. Keith Shaw and Kevin Frazier, representing the applicant, made the presentation to the Board and the owners were also present. Nick Robinson, a resident in the community, also spoke on the matter.

The matter was discussed during the March 6 Planning Board meeting and final action was postponed to the April 3 meeting. Reasons for the postponement are noted below and in the recommendations. Follow up information from the April 3 meeting is in ***bold italics for standards 2, 3, and 4.***

### **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.

This property is currently zoned R-1 Residential with a Conditional Use Permit that was issued April 5, 1982 for a music publishing business and has remained a valid use to date. The adjoining property

is zoned R-1 on the west and east and R-2 on the north side of Manns Chapel Road. A Conditional District Neighborhood Business district was approved in June 2016 for general and professional office space and event center limited on a property approximately 400' from this property. The property is located within the Jordan Lake buffer rule area of two watershed classifications. The bulk of the property is located within the WSIV-Protected Area district where uses are not restricted and the northern portion of the property is in a WSII-Balance of Watershed where uses are regulated. The proposed rezoning is located within the WS-IV PA district.

A community meeting was held on December 5, 2017 at the site. Thirteen residents attended along with the applicants. Discussion topics included limiting commercial zoning to the area of disturbance needed for the business, concrete versus gravel use, and a focus on maintaining the rural appearance and primary use of residential.

A meeting with the Chatham County Appearance Commission (CCAC) was held December 20, 2017. Approximately 10 acres of the 31.89 acres is to be developed for the business and considered for rezoning. CCAC noted that the property has an existing heavy sight buffer along the roadway that is not to be disturbed or removed. Other recommendations are as noted in the minutes of that meeting and have been/will be incorporated into the final site design.

There are five standard items listed in the Zoning Ordinance that must be addressed by an applicant when submitting a conditional rezoning application. The applicant has addressed those items in the application materials or in supplemental materials and they are 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.

**It is the opinion of planning staff this standard 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 contends that due to the growth of the county both residentially and commercially, there will be a need for their services in a greater capacity. The applicant currently lives and operates in Durham and has a customer base in other counties which they will bring with them as an already established business.

The applicant believes since the property has historically been a good location for the existing publishing company that this business will be more acceptable and needed for the future growth of the county.

The owners plan to move onto the property as their residence, as well as run the business. The property currently has a residence, an office and storage/warehouse that will be utilized. They will add several greenhouses to grow their own products, storage of various colored mulch/gravel/etc.,

and have parking for workers and employees. They believe this will bring jobs and an increase in the tax base for this property.

There was a concern by a Commissioner over the amount of traffic arriving and leaving the site on a daily basis on an already heavily traveled road. Even with no retail store front, the business will employ approximately 30 people who will arrive at the site to get the work trucks and equipment that will be used off-site. Likewise those employees will return at the end of the work day. The owner's stated there will be no work on Sundays but could potentially have some work on Saturdays during the peak months. Normal hours of operation would be 8am to 6pm with no late hours. It was asked if a traffic analysis had been done and the representatives stated one had not. Nick Robinson, area resident, also stated concerns over the amount of trucks and equipment that would be utilizing this roadway and if there had been any foreseeable issues with NCDOT issuing two commercial driveway permits.

**It is the opinion of planning staff this standard is not met. (Note: the staff recommendation is that this item is now supported based on additional information provided by the applicant and further explanation is provided in the notes.)**

**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.** The applicant references Plan Chatham that was adopted in November 2017 and noted that the property falls on the border of a rural and compact residential area as shown on the future land use map. The applicant notes that they are developing less than one half of the site (10 acres out of the 32), that the rural character, with the exception of an added driveway, will be maintained. They also contend that the continuation of supporting existing business is key to being able to locate and develop this property as they have requested.

The property is about ½ mile from a Neighborhood Center that is identified on the Future Land Use & Conservation Plan Map at the intersection of 15-501 N and Manns Chapel Road. A neighborhood center is described as a location where commercial activities are recommended such as grocery, convenience, shopping, restaurants, etc. The property under consideration for rezoning is located within a Compact Residential designation and adjacent to a rural designation. Compact Residential is described as having a "Mix of detached and attached residential units complemented by a variety of open space. Mix of uses include single family detached and attached units and some multi-family units. Community centers, amenities, recreational uses, schools, and churches may be part of the fabric." The Rural designation description includes a "Mix of uses include agriculture, large lot residential, supporting service uses, and home based & small scale business." Plan Chatham also includes that performance need to be adopted for small scale businesses.

**It is the opinion of planning staff this standard is not met for the following reasons:**

- a. The property is not located within a land use designation that promotes non-residential uses.**

- b. The future land use map designation for this property is Compact Residential and the use proposed is not supported. This area does have a compact residential character based on the proximity to Briar Chapel, a duplex development, and access to the county water system. The site plan indicates parking for up to 20 office and visitor spaces as well as up to 47 for employee parking and other parking for trucks and/or equipment. There will be loading/unloading of materials from the material bins noted on the site as well as other activity that increases traffic and noise that are not customary in a compact residential setting.
- c. Page 67 of Plan Chatham expressly states to “avoid strip commercial development along key road corridors.” Manns Chapel Road is a heavily traveled corridor that links to US 15-501 N and development activity in Chapel Hill, Orange County. Manns Chapel Road is also used by commuters to access an elementary school, as well as the soon to be completed Great Ridge Parkway entrance to Briar Chapel. Although the use is not commercial, the applicant has indicated they want to hold classes on the use lawn care chemicals, which would increase traffic to the property.

**Item #4: The requested amendment is either essential or desirable for the public convenience or welfare.** The applicant states the site is ideal for a landscaping business because it will serve the residences and businesses in the area and county. It is also noted that they employee people from the community and that they offer a service that helps maintain property values.

During discussions with the Board, the owner stated they bring the yard waste to the site and store in the bins that are proposed at the rear right of the site plan. He also stated they recycle as much product as they can including but may not be limited to oil, metal, concrete, natural debris, and the yard waste. He stated the bins will range from 20-40 yard containers and the material will be brought to the site and loaded by the respective industry users and removed on a regular basis. They will not be mulching any debris on site per the owner.

**It is the opinion of planning staff this standard has not been supported. There has been no information provided that there is a lack of landscaping companies in the area or county that warrant this business. Although the planning department did not receive any phone calls regarding the rezoning, there is no information to support the approval. There is also concern about the debris and waste material storage that is proposed. (Note: the staff recommendation is that this item is now supported based on additional information provided by the applicant and further explanation is provided in the notes.)**

**Item #5: All other circumstances, factors, and reasons which the applicant offers in support of the proposed amendment include** their desire to bring their business into the county so it can continue to grow and also maintain their presence in the county. It is also noted that the approximately 3 acres will need to be disturbed to prepare the site and that the business operations will be approximately 350 feet from Manns Chapel Road.

**It is the opinion of planning staff this standard has been met.**

*The Planning Board discussed the request during their March 6, 2018 meeting and postponed taking action on the item to allow time for the applicant to meet with staff to discuss the application. **Please refer to the minutes of that meeting for more information about the discussion (**<http://www.chathamnc.org/Home/Components/Calendar/Event/19416/198?toggle=allpast>**)**.*

*The applicant's representatives provided responses to the findings where staff had recommended denial. There were several questions asked about the site, as well as how the rezoning relates to the recently adopted Plan Chatham. There were concerns about the storage of landscaping materials that would be brought to the site, the possibility of holding educational seminars on site, the number of driveways being proposed, the number of employees traveling to and from the site, and maintaining the rural character of the area. The Planning Board voted 8-1 to postpone voting on the application and requested that planning staff meet with the applicant and their representatives to discuss the application.*

*Planning staff met with the applicants, their representatives, and their attorney, Ms. LeAnn Brown to discuss the issues. Discussion included the following:*

*For Item 2:*

- *The applicant's will consolidate driveways for the business from two to one and confirmation from NCDOT has been provided. A revised site plan has also been provided to show a slight modification to the parking areas to accommodate the driveway reconfiguration.*

***At the April 3 meeting, the applicant's attorney, Leann Brown, presented updated information in support of the standard. The applicant contacted NCDOT and they have agreed to only one commercial driveway instead of two. NCDOT noted that trip generation rate for this particular business would be less than if the 30 acre tract was developed in single family housing citing a rate of 6 trips per day per home. The site could potentially be developed with about 25 homes which equates to 150 trips per day the proposed business will have about half that amount of traffic. This also supports Strategy 6.4, page 67 of Plan Chatham regarding coordination with NCDOT to minimize access points.***

**It is planning staff and planning board opinion this standard has now been met.**

*For Item 3:*

- *The applicant will provide additional information about conformity with Plan Chatham.*

***At the April 3 meeting, the applicant's attorney, Leann Brown, presented additional information in support of this standard with specific references to Plan Chatham (Ms. Brown's letter and supporting documentation is provide online under Supplementary Items for this request).***

- ***Page 45 - strict adherence to the Plan in making land use decisions is not recommended. Even though this area is shown on the adopted Future Land Use and Conservation map as compact residential, having another compact community in this area is not likely. The property is adjacent to a rural designation and this type of business provides services for properties in rural and compact residential areas.***

- *Page 67 addresses defining the boundaries of intense commercial development so that the design will help maintain the scenic nature of commercial and mixed use development. This property will have no change from what is currently visible from Manns Chapel Road. Preservation of the existing vegetation and improving the existing drive for the business will promote strategy 6.2. Two greenhouses will be constructed on the site. All other existing buildings will be repurposed to meet the applicant's needs.*
- *Page 54 Economic Development strategies recommends providing flexibility for rural businesses that have limited impact on adjacent properties and preserve rural character. The additional materials note that a landscaping business is more rural than a music/publishing business and more compatible with residential use.*
- *Page 55 includes increasing employment opportunities across the county and this business will bring approximately 30-40 jobs to the county.*
- *Page 68, Strategy 7.1 encourages the support of home-based businesses. Even though this is not a home-based business per the Zoning Ordinance standards, the applicants will live in the dwelling currently located on the balance of the property.*

It is planning staff opinion this standard remains unmet as it is not located within an area on the Plan Chatham Future Land Use and Conservation Map that supports this type of business. The prior business was low impact with minimal staff as compared to this use with up to 30-40 employees. It is planning board opinion this standard has been met and is repurposing property and buildings that have been used for a business that was approved under a conditional use permit. A consistency statement has been provided by the Planning Board for consideration.

*For Item 4:*

- The applicant has prepared an economic analysis with assistance from the Chatham County Economic Development Corporation to further explain how this use would benefit the county.
- The recycled materials will be stored in bulk storage metal containers that will be emptied on a regular schedule by a private waste disposal company. Additional information has been provided by the applicant and is included as an attachment. It is staff opinion that this standard can be met.

***At the April 3 meeting, the applicant's attorney, Leann Brown, presented information in support of this standard. The applicants have stated they purchase approximately \$80,000 in supplies annually that translates into approximately \$6,000 in additional sales tax. These are items they would be acquiring from businesses such as Lowes Home Improvement and Town and Country Hardware. Planning board members also encouraged the applicant to purchase landscaping materials from local growers. The applicant also stated that property taxes could increase an additional \$1,200 through personal property taxes.***

***The applicant contacted Chatham County EDC to provide information on similar uses in this part of the county. There were three similarly sized businesses in a ten mile radius. With the amount of residential development already approved and not yet built, they felt***

***there was sufficient capacity for another landscaping design company that can be supported.***

**It is planning staff and planning board opinion this standard has now been met.**

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

See Standard 3 and the consistency statement.

**Recommendation:**

The Planning Department does not think the proposed rezoning is consistent with the recommendations of Plan Chatham and that a resolution should be adopted that the rezoning is inconsistent with the plan. The Planning Board by vote of 7-3 finds that rezoning is consistent with Plan Chatham and recommends approval of the following consistency statement:

**It is the opinion of the Planning Board the request to rezone a portion of (10 acres of the 32.89 acre tract) Parcel No. 2691, located at 4590 Manns Chapel Road, from R-1 Residential with a Conditional Use Permit, to CD-CB Conditional District Community Business is in compliance with Plan Chatham, the adopted comprehensive plan of Chatham County, which is a guideline not a requirement. The proposed activity does not affect the integrity of the residential area and is in keeping with the rural character of the surrounding area.**

The planning staff recommendation is denial of the conditional rezoning request based on Item #3 not being supported. The Planning Board by a vote of 7-3 recommends adoption of an ordinance amending the Zoning Ordinance to approve the request by O'Mara Landscaping & Lawncare, Inc. to rezone 10 acres of the 31.89 acre tract from R-1 Residential to CD-CB Conditional District Community Business, identified as Parcel 2691, located at 4590 Mann's Chapel Road, Baldwin Township for a landscaping and lawn care contractor's business.