



## Chatham County Planning Board Agenda Notes

Date: June 4, 2019

Agenda Item: VIII-1

Attachment #: None

- Subdivision       Conditional Use Permit       Rezoning Request  
 Other:

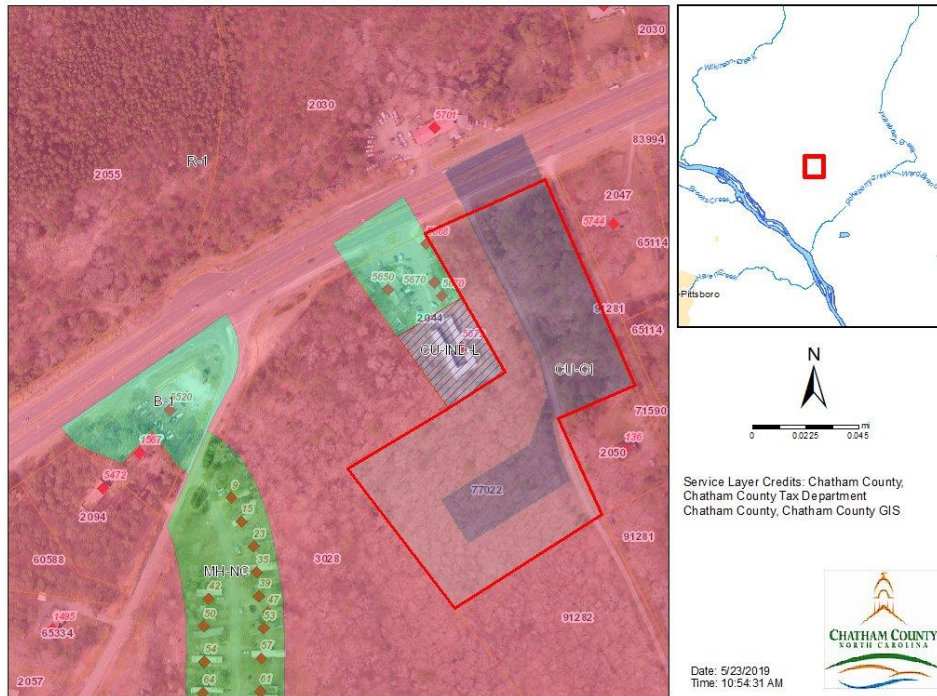
<b>Subject:</b>	A legislative public hearing request by Chris Sanders of Sanders Automotive for a rezoning of Parcel No. 77022, located off Ruth Lane and US 15-501 N, being approximately 7.07 acres, from Conditional Use District O & I and R-1 Residential to Conditional District Neighborhood Business, Baldwin Township.
<b>Action Requested:</b>	See Recommendation
<b>Attachments:</b>	None

### **Introduction & Background:**

A legislative public hearing was held on May 20, 2019. Planning staff presented the application and supporting information. Mr. Mark Sanders, co-owner with Chris Sanders, also spoke to the Board on the request. Also speaking was Kirby Zeman, an adjacent landowner, who spoke in support of the rezoning.

A portion of the property was rezoned from residential to Conditional Use District Office & Institutional on April 18, 2000 with a conditional use permit for a medical (dental) clinic on 3.24 acres of the seven acre parcel under the name of J. Lowell Williams. The balance of the property remained residential. The Conditional Use Permit (CUP) was voided because the site was never developed and the permit expired, but the conditional use district remained in place.

### Chatham County Tax Map



*The image above shows the current zoning in the area.*

The applicant's current business, Sanders Automotive, is located on the opposite side of US 15-501 from the subject property. That building has been used for automotive services since 1956 per tax property information and the applicant has operated his business there since 2013. Due to increasing demand for automotive services, the applicant wants to expand and purchased the property on the opposite side of the highway in hopes to accomplish the expansion/relocation.

The zoning of property in the vicinity of this parcel includes General Business; Conditional Use Office & Institutional, Residential, and a non-conforming automotive repair business. The watershed designation is WS-IV Protected Area within the Jordan Lake drainage and built upon area is limited to 36% without the use of curb-and-gutter. A private driveway, Ruth Lane, bisects the property and serves as access to an adjoining property. The entrance of Ruth Lane is proposed to serve the site, but access to the adjoining property will be relocated. Ruth Lane is approximately 600' from the intersection of US 15-501 and Bynum Road and US 15-501 has a divided median at this location.

### **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 applicant held two community meetings to make sure all adjacent property owners had an opportunity to review the proposed project. One meeting was on November 12, 2018 and the other on December 10, 2018. There were no concerns or changes made to the application proposal or site plan based on the community meetings.

A meeting with the Chatham County Appearance Commission (CCAC) was held November 28, 2018. The following amendments to the landscaping plan are as follows:

- Plans shown include the removal of tree cover in the center of the property to build an automotive repair shop and create parking.
- The rear of the property has existing hardwood dense cover that will not be disturbed.
- The east side of the property will be disturbed and plans call for planting evergreens to meet county screening requirements. The proposed and agreed upon species are Eastern Red Cedars to be planted 8' on center with Tea Olives in between.
- The dumpster, oil tanks and compressor areas are also to be screened with Tea Olives. The plans did not reflect this— but it was requested by CCAC members, and agreed to by both Chris and Mark Sanders to make the changes to the plans.
- The parking area on the plans submitted call for Juniper to be planted on its perimeter, Commission members suggested and it was agreed that these be Sargent or Andora Juniper.
- There was discussion about the area adjacent to the parking area where plans called for Fescue Lawn and shrubs. Commission Members suggested and it was agreed to by the Sanders that they plant Cedar trees 6' on center staggered as well as a variety of species including Dwarf Pussy Willow, Red Twig Dogwood and Dwarf Forsythia in between the trees to create a more wild, natural look than manicured lawn. Dan Sundberg suggested that using "live stakes" would keep the cost of implementing this change down. The Sanders agreed to have the plans changed to reflect these suggestions.
- No lighting is called for on the rear of the building and all other lighting planned will be submitted to Angela Birchett for approval.
- The signage will consist of an 8' x 8' monument that will comply with County requirements.

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.

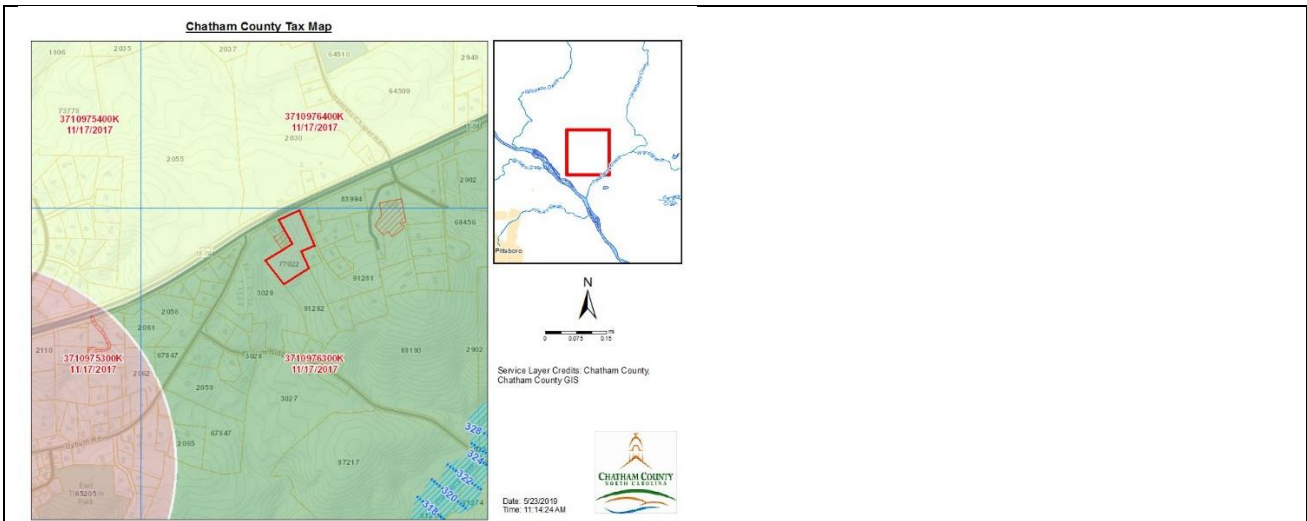
**It is the opinion of planning staff this standard is met.**

**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.** Because of the current site's physical limitations, including access to and from the US 15-501 corridor, the applicant purchased a 7 acre parcel on the opposite side of US 15-501 and wants to relocate the auto service facility and provide additional flex space for future commercial development. The proposed site will allow better access and increased room to service automobiles. The site is currently zoned Conditional Use Office & Institutional for a professional office and R-1, Residential, but no development has occurred on the property. The property is also located adjacent to existing business uses on the east side of US 15-501 that include a restaurant, retail, and min-storage facility and zoned B-1, General Business, and CU-IND-L, Conditional Use Light Industrial.

The property is located in the study area of the "15-501 Corridor Market Profile and Analysis" that is an appendix to the comprehensive plan. In the market profile, traffic along US 15-501 was found to have increased to 15,000 trips per day near Bynum. Residential development in the general vicinity has also increased and there are more than 9,000 dwelling units in the 50 square mile study area. The property is served by public water and has at least two approved septic sites. There is also sufficient property to accommodate the proposed structures and parking and meet built upon are limits.

**It is the opinion of planning staff this standard 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 application notes that the rezoning would encourage the expansion of an existing business located within the area. A new service facility would allow the applicant to better serve the automobile service and repair needs of the community. Additionally, the site could accommodate future space for retail stores and other personal service shops, as well as business and professional offices. According to the comprehensive plan historic centers like Bynum should accommodate small-scale business, local retail, office, institutional, service uses, restaurants, and some residential. The application indicates that the limited uses proposed through a conditional district rezoning is consistent with that description.



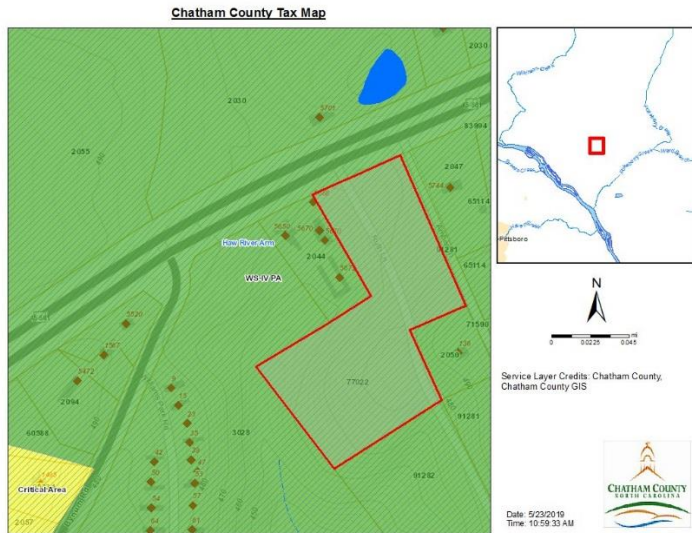
*The map above shows the Future Land Use and Conservation Map and the property is located in an area identified as Conservation. The map is a guide showing the intended future land use pattern using various land use areas. Strict adherence to the map in making land use decisions is not recommended but should be used as a guide.*

Although the site is located within an area designated as Conservation, it is in relatively close proximity to the Village Center designation that includes the Bynum community. The property is located adjacent to existing business uses on the east side of US Highway 15-501 and directly opposite the applicant’s existing commercial property. Within the Economic Development Plan Element, Strategy 4.4 reads “Permit existing commercial and industrial uses that are appropriately zoned to continue to operate, and allow for reasonable expansion, contingent upon meeting environmental and transportation requirements.” Although there is no use currently in operation on the property a portion has been rezoned for office and institutional use.

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

**Item #4: The requested amendment is either essential or desirable for the public convenience or welfare.** The need for additional limited commercial development including automotive service is supported by the increased traffic on US 15-501, as well as the development of Briar Chapel, Chatham Park and other residential neighborhoods along this highway corridor. Existing and projected traffic volumes and the lack of nearby service facilities make this site appropriate for rezoning. The applicant’s existing business supports of the need for the automotive services it provides.

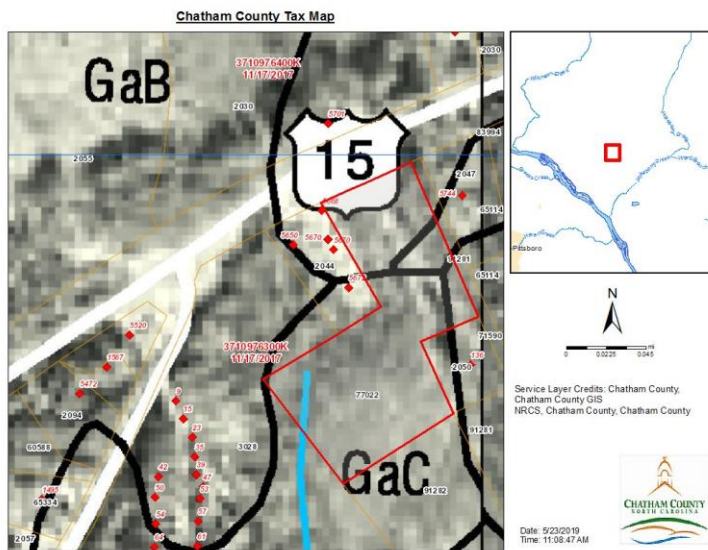
The property is located within the WSIV-Protected Area watershed district and also within the Jordan Lake drainage. Up to 36% built upon area is allowed without the use of curb and gutter for roads and parking areas. The site plan shows approximately 2.4 acres of built upon area, which is below the 2.52 acres permitted by the Watershed Protection Ordinance.



*The image above shows the watershed classification and the property is located within a WSIV-PA Protected Watershed within the Jordan Lake Buffer rule area.*

The NRCS map does show a possible blueline stream near the southwestern property corner that requires a 50' buffer on either side of the feature. The site plan indicates that this area will remain wooded and undisturbed 200 feet into the interior of the property.

When disturbing more than 20,000 square feet of land, an erosion control and stormwater management plan will be required to be submitted and approved before any land disturbing activity can begin. There are no floodable areas mapped on the parcel.



*The image above shows the Natural Resources Conservation Service soils map shows one blueline stream on the property outside of the area under consideration for rezoning.*

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

**Item #5: All other circumstances, factors, and reasons which the applicant offers in support of the proposed amendment.** The application proposes limited neighborhood business uses that are adjacent to existing commercial development. The proximity to a major thoroughfare and existing businesses also make it unsuitable for residential development. The site plan has also been reviewed by the Appearance Commission for compliance with the adopted design guidelines and the applicant has agreed to implement the changes recommended by that advisory committee.

The applicant has stated and county staff has verified that the property owners at the end of Ruth Lane have agreed to abandon their access and relocate their entrance. Ruth Lane will become a private commercial drive and NCDOT will review the driveway permit application submittal and determine if any additional road improvements are needed.

As previously noted, 3.24 acres of the property has been zoned Conditional Use Office & Institutional for approximately 19 years and no use has located on the property. However, adjacent properties have been successfully used for commercial uses, including a restaurant, retail sales, automotive repair, and mini-storage facility. The proposed rezoning is conditional and the applicant is proposing to limit the uses to those that have shown a proven track record in the immediate vicinity. The lack of use of the CU-O&I rezoned portion of the property for almost two decades and success of nearby commercial uses can be viewed as supporting the rezoning request to conditional district neighborhood business.

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

**Planning staff recommends approval of the rezoning request based on all five standards can be met.**

**Recommendation:**

It is the opinion of planning staff that the Planning Board recommend approval of the conditional rezoning request based on all standards being supported. The Planning Board has up to three meetings in which to make a recommendation to the Board of Commissioners. The following conditions would apply to the approval as well:

**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.

**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 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:**

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

Should you recommend approval of the request, a consistency statement has been prepared for your consideration.

**The request to rezone Parcel No. 77022, being 7.07 acres, located on US 15-501 N, from R-1, Residential, and CU-O & I, Conditional Use Office & Institutional to CD-NB Conditional District Neighborhood Business for an automotive repair and retail shops complies with the Chatham County Comprehensive Land Use Plan. The comprehensive plan includes supporting the expansion of small and medium businesses and a portion of the property is partially zoned for office and institutional use.**