

..TITLE

Vote to approve a legislative rezoning request by Scott Pearce dba For Garden Sake to add Parcel 62824 being two acres to the existing Parcel 19644 being approximately 19.25 acres to expand existing services and utilize the decommissioned O'Kelly Chapel Church as part of the expansion. Both parcels to be recombined and rezoned from Conditional Use Business 1 and R-1 Residential to Conditional District Regional Business (CD-RB) for lawn and garden shop, landscape business, and event center limited. Williams Township.

..ABSTRACT

Action Requested:

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Introduction & Background:

A legislative public hearing was held on May 17, 2021. Planning staff presented the application and stated the applicant had met all the findings. No one else spoke on the matter and no Commissioners or Planning Board members had questions. The matter was referred to the Planning Board for review and recommendation.

Discussion & Analysis:

The current business on Parcel 19644 was approved for landscape design, lawn & garden shop, and horticulture on June 19, 1995. Since then, there have been two revisions to the conditional use permit. On November 7, 2011, the Board of Commissioners approved the remaining two acres of the parcel to be rezoned CU-B1 for expansion of services. In 2016, the owners purchased the church property but were not sure at that time exactly how they wanted to incorporate it into their current business plan. On November 18, 2019, the Board of Commissioners approved to add the use of Event Center Limited to allow for the possibility of weddings, meetings, and other gatherings to be held on the property.

Since the property with the landscaping business (parcel 19644) has a legacy business zoning district (CU-B1 with a conditional use permit) that can no longer be expanded additional property, the applicant is requesting to rezone the current business parcel and church parcel to Conditional District Regional Business (CD-RB) for conformity on both parcels.

When determining whether a rezoning request should be approved under Section 5 Conditional Zoning Districts, the following findings must be supported.

1. **The alleged error in the Ordinance, if any, which would be remedied by the proposed amendment with a detailed explanation of such error in the Ordinance and detailed reasons how the proposed amendment will correct the same.** The applicant is not claiming any errors in the Ordinance pertaining to this request.

It is planning staff opinion this finding is supported.

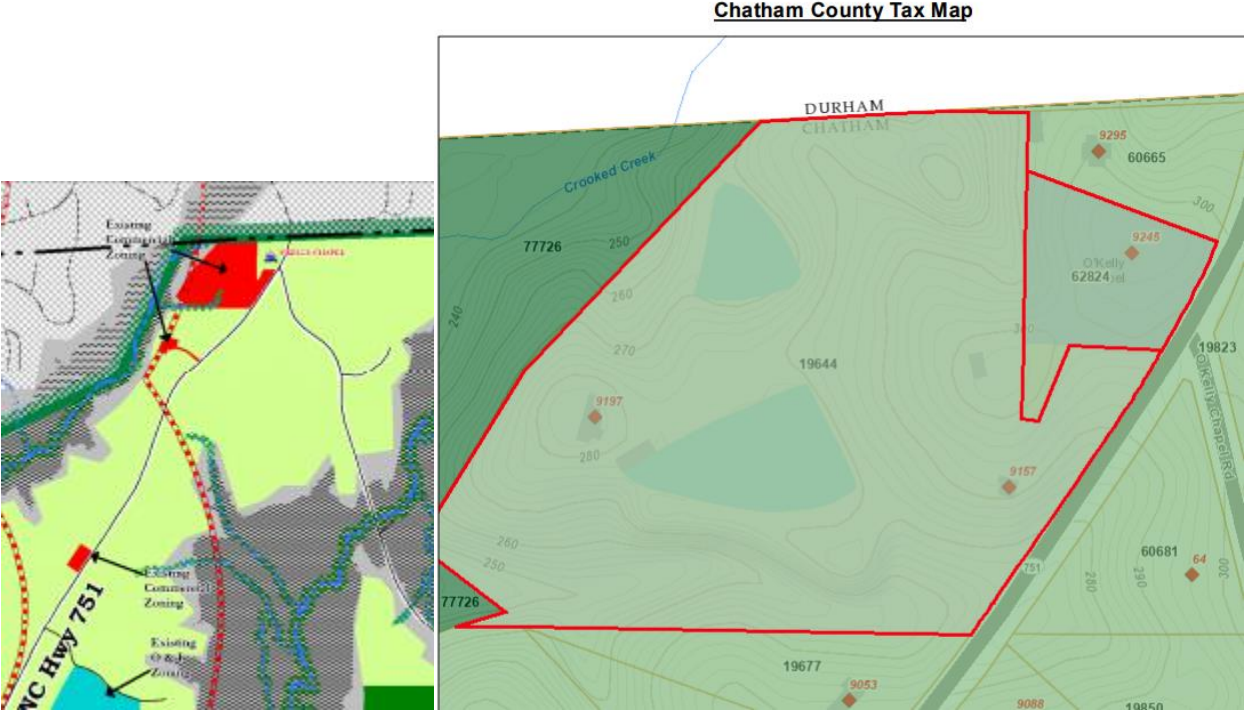
2. **The changed or changing conditions, if any, of the area or in the County generally, which make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare.** The historic O’Kelly Chapel Church was decommissioned in the 1980s after serving the community for 224 years when it began in 1794. The land and structure will remain part of the National Historic Registry. The Chatham County Historical Society has also voiced interest in preserving photos of the site before and after the church is moved approximately 40 feet closer to the existing For Garden Sake business.

The applicant held a community meeting on February 12, 2021. Only one property owner attended the meeting. It was explained how the applicant wants to preserve the church and put it back into use with events since there have been community members who have voiced concern about the building falling into disrepair.

The applicant met with the Chatham County Appearance Commission (CCAC) two separate times. February 24, 2012 and March 24, 2021 to iron out some specific plant species and areas for added buffering for the adjacent property as well as the view from the roadway. The landscape plan was approved by the CCAC.

It is planning staff opinion this finding is supported.

The map below is taken from the Joint Chatham Cary Plan Map and Chatham Comprehensive Land Use plan for the area. The Comp Plan shows the properties in the Conservation area.



1. **The manner in which the proposed amendment will carry out the intent and purpose of any adopted plans or part thereof.** The applicant previously applied to and has been granted a modification of the Joint Land Use Plan (JLUP) map by the Town of Cary and Chatham County to change the land use designation on parcel 62824 from Very Low Density Residential to Commercial/Retail. The application notes that on Page 2-3 of the JLUP, one of the guiding principles is preservation of rural character of the area. Additionally, both jurisdictions have use classifications for event center limited and the church has had a residential zoning classification even though the use is non-residential.

Page 14 of the Plan Chatham encourages more opportunities for citizens and visitors to hold meetings or events based on our geographic location. Page 18 refers to preserving the rural character as one of the top goals of the plan. The applicant’s business offers lawn and garden center, landscape design, and horticulture retail along with the existing design of the site, rural character has remained a top priority.

Page 41 refers to preserving historical resources. The O’Kelly Chapel Church is listed in the National Historic register and the applicant will work to maintain the structure in its

current form. The cemetery located on the property was deeded to a private owner more than 40 years ago per a news article obtained by planning staff. A condition will be made for protection and access of the cemetery for those wishing to visit in case the ownership changes.

Page 68, Land Use Policy 7, the project will continue to have minimal impact on adjacent property as noted in 7.4 due to the amount of landscaping and preserving of natural vegetation as possible. Strategy 2.3 on page 106 addresses preserving heritage trees. The applicant states there are possibly two heritage trees near the front of the property that could qualify. It was also requested that Grand Trees of Chatham be involved in the identification process so they can be documented for the the registry.

It is planning staff opinion this finding is supported.

1. **The requested amendment is either essential or desirable for the public convenience or welfare.** There is no significant increase in traffic expected other than what is currently in place with the business. This request is essentially adding a building that can serve as space for the previously approved events center limited.

Fencing already extends along both properties and landscaping is in place for the current business property. No additional lighting is proposed with this request.

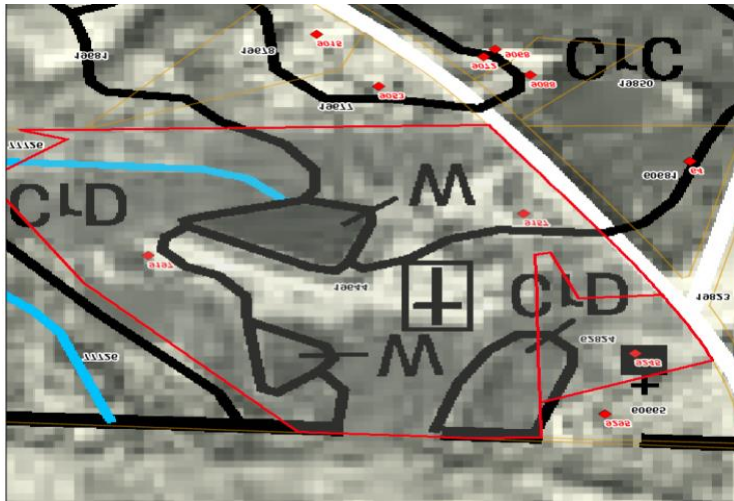
Noise may be increased for instances of live music groups or prerecorded music for specific events, but the applicant states they will comply with the Chatham County Noise Ordinance enforced by the Chatham County Sheriff's Office.

Signage is already in place and no new signage is requested.

It is planning staff opinion this finding is supported.

2. **All other circumstances, factors, and reason which the applicant offers in support of the proposed amendment.** There is private septic and well on the property and no additional are requested at this time. The existing driveway on the church and garden center properties will be utilized. The current pond will continue to be used and built upon area will remain well under the 36% allowance.

The below NRCS map shows the blueline stream that feeds the existing pond on the property. These features are required to be buffered per the Watershed Protection Ordinance regulations.



It is planning staff opinion this finding is met.

Based on all five findings being supported, planning staff recommends approval of the request.

The Planning Board reviewed the rezoning request during their June 1, 2021 meeting and there was a brief discussion about the application. Board members recalled their prior discussion when reviewing the request to amend the Chatham-Cary Joint Plan and expressed support for repurposing a historic structure. The Planning Board voted unanimously (10-0) to recommend approval of the consistency statement provided in the recommendation and again unanimously (10-0) to recommend approval of the rezoning application.

How does this relate to the Comprehensive Plan:

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-communicating.

Recommendation:

The Planning Board by unanimous vote (10-0) recommends adoption of a resolution approving the following consistency statement:

The request is supported by the Plan Chatham by preserving rural character, repurposing an historic building, and continuing to provide employment opportunities and tourism. Additionally, the Joint Chatham-Cary Plan map has been amended to expand the Commercial/Retail designation to parcel 62824.

The Planning Board by unanimous vote (10-0) recommends adoption of an ordinance amending the Zoning Ordinance approving a legislative rezoning request by Scott Pearce dba For Garden Sake to add Parcel 62824, consisting of two acres, to existing Parcel 19644 being approximately 19.25 acres to expand existing services and utilize the decommissioned O'Kelly Chapel Church as part of the expansion. Both parcels to be recombined and rezoned from Conditional Use Business 1 and R-1 Residential to Conditional District Regional Business (CD-RB) for lawn and garden shop, landscape business, and event center limited 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 and as shown on the revised site plan. The planning staff and CCAC may conduct routine inspections of the property to ensure compliance with the landscaping requirements.
2. Access to the cemetery shall be given and maintained for visitors.
3. Access shall be provided to the Chatham County Historical Society to document the church prior to and after it is relocated on the property to supplement any historical records that currently exist.
4. A building permit shall be obtained and remain valid at all times within two years of the date of this approval or the site plan becomes null and void.

Standard Site Conditions

5. 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 to or variations from any requirements of this permit must be approved through the Planning Department or other approving board before any such changes can take place.
6. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Land and Water Resources, and Environmental Health Division, etc.) shall be obtained, if required, and copies submitted to the Planning Department as part of the platting process.

Standard Administrative Conditions:

7. 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.

8. Continued Validity – The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditions listed above.
9. Non-Severability – If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
10. 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.