



COUNTY COMMISSIONERS

Karen Howard, Chair
Franklin Gomez Flores, Vice Chair
Mike Dasher
Diana Hales
Robert Logan

COUNTY MANAGER: Dan LaMontagne

Ordinance of the Chatham County Board of Commissioners

AN ORDINANCE AMENDING THE ZONING MAP OF CHATHAM COUNTY

Herndon Farms One LLC

WHEREAS, the Chatham County Board of Commissioners has considered the request by Herndon Farms One LLC, to rezone approximately 97.86 acres, being all or a portion of Parcel No/s 93852, 2752, 18750, 18897, 18896, and 18909, located at/off US 15-501 N, Baldwin and Williams Township, from R-1 Residential to CD-CC Compact Community to develop the site for a new active adult, 55 and older, compact community to include 151 residential units, congregate care facility, one-story office/daycare, community gardens, and barn for events, and finds that the amendment is consistent with the comprehensive plan of Chatham County as described in the Consistency Statement Resolution; and

WHEREAS, the Board finds that the rezoning request set forth in the Application and incorporated herein by reference, if approved as pursuant to the provisions of the zoning ordinance, would be suitable for the property proposed for rezoning; and

WHEREAS, the Board finds the five (5) standards, as described below, from the Zoning Ordinance have been met as stated:

No. 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, and reasons how the proposed amendment will correct the same. The applicant is claiming no error in the Ordinance. The proposed use of Compact Community is allowed under Section 10.11 of the zoning ordinance. Additionally, the property is located within the Compact Community Ordinance boundary allowing for compact community rezoning applications to be submitted; and

No. 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. In November 2017, the Board of Commissioners adopted Plan Chatham. This plan provides a road map to guide development to areas best suited for various types and mixes of uses. A Market Analysis was provided as Exhibit C. The report specifically cites Recommendation 10, pg. 91 of the Comprehensive Land Use Plan, HL Policy 16, Strategy 16.1 to 16.5 which encourages the development of housing and services for the aging population, specifically the 55 and older. The community will consist of independent single family living units, townhomes, duplexes, and units within the congregate care facility. The proposed community will yield approximately 49 full time jobs within the commercial area and is expected to increase the real property tax base by about \$78.2 million. A Fiscal Impact Analysis was conducted and can be reviewed under Exhibit D.

The community will offer an “aging-in-place” atmosphere where active adults can own their homes, participate in community gardens and events, as well as transition into other assisted care as needed. This community is stated to provide affordable housing to active adults; and

No. 3: The manner in which the proposed amendment will carry out the intent and purpose of any adopted plans or parts thereof. This proposal is located within the area noted for mixed use and compact communities as shown on the map included in the Introduction & Background and as part of Recommendation 02, Strategy 5.2, Pg 66, Compact Communities. Preserving the rural character - by incorporating a community farm, community gardens, and a Koi Pond that the development will center around. The farm is anticipated to produce food and materials (eggs, honey, goat milk) to be used by the residents. The commercial area has remained outside of the 100 foot viewshed buffer which aids in keeping with the rural character. Conserve Natural Resources – the WWTP system will generate Type 2 effluent clean enough to be used for irrigation, some food crops and in water features proposed for the development. By concentrating the development to one side of the total property area, close to 40 acres of the site will remain in open space, largely undisturbed, and working to connect trails to other developments. The proposed daycare can also benefit from the recreation on the farm. Provide infrastructure to support desired development and support economic and environmental objectives. With the compactness of the development, low impervious surface, and large open spaces creates more environmental efficiency. By meeting the EPAs Water Sense program, the project will achieve a more than 50% reduction of water and wastewater design loads ; and

No. 4: The requested amendment is either essential or desirable for the public convenience or welfare. There are some stream features and wetlands that require buffering and have been identified on the site plan. There is an area to the rear of Parcel 2752, labeled Bennett Mountain SMHA, that is to remain forested and become part of a trail system and open area. The only structure for this parcel will be the wastewater treatment plant (to be operated by Aqua America) and is to be located on the highway side of the parcel. The applicant states the plant is to serve this development only. Minor improvements to US 15-501 will be required for the entries into the community. This will go through the NCDOT review and approval process. Two entries off US 15-501 N are proposed. One at the commercial area and one into the residential area. This is supported by Land Use Policy 6, Strategy 6.4, Pg 67 of Plan Chatham. The development will also have a transit stop within the community as shown on Exhibit B.3 as well as sidewalks for connectivity which are encouraged or required in the Compact Community Ordinance; and

No. 5: All other circumstances, factors and reasons which the applicant offers in support of the proposed amendment. The CCO requires a minimum of 30% open space to be maintained in a development. This project will have approximately 42%. The project will be served by Chatham County water system and a private wastewater treatment system. A non-discharge permit will be required from NC Department of Water Quality. The membrane bioreactor system proposed will use an aerobic treatment technology which is said to be more efficient than a typical anaerobic treatment. The system is to produce little odor and noise. Please note that the county cannot regulate the type of wastewater treatment system for a development because that approval is under the purview of the NC Department of Environmental Quality.

Irrigation lines will be used for the gardens, farming areas, and water features from the effluent of the wastewater which will be treated on-site.

The applicant proposed a balanced site grading process where the earth and rock moving from the higher elevations will be placed in lower elevations and when completed, the remaining will be used on site for berms and landscaping. Chatham County Stormwater regulations shall be followed for the 1 year, 24 hour storm even; and



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BE IT ORDAINED, by the Board of Commissioners of Chatham County as follows:

1. The Application to rezone all of the property described as Parcel No/s. 93852, 2752, 18750, 18897, 18896, and 18909 and being approximately 97.86 acres as depicted on Attachment "A", located at/off US 15-501 N, from R-1 Residential to CD-CC Compact Community, Williams and Baldwin Township is approved and the zoning map is amended accordingly.
2. As part of this approval, the following conditions are also approved and shall be followed at all times:

Site Specific Conditions

1. The Master Plan, attached as Exhibit A, shall be the guide for all phases of the development. Any modifications, changes, alterations not allowed by administrative approval, must be resubmitted as a CD-CCO Revision and all submittal requirements followed.

Total project area = 97.86 acres
Maximum Impervious Surface = 24%
Total Number of Dwelling Units = 151
2. The site plan/s for the commercial areas must be reviewed by the Chatham County Appearance Commission.
3. Landscaping/Screening. All required screening and buffers shall be in place prior to issuance of a certificate of occupancy or next optimal planting season after issuance of a certificate of occupancy. Existing vegetation may be used to fully or partially fulfill the landscaping and buffer requirements of the County. The extent to which the same can be used shall be determined by the Planning Department prior to issuance of the certificate of zoning compliance. It is strongly recommended that existing native vegetation be preserved where practical. Grading within buffers will be done in compliance with approved erosion control plans and as approved by the Planning Department prior to disturbance.
4. All required permits and/or authorizations from local, state, and federal agencies shall be submitted as part of the platting process and prior to any land disturbing activities covered under current ordinance, law, or regulation and before any such zoning determinations are approved. This includes but is not limited to Zoning, Planning, Building Inspections, Environmental Health, Fire Marshal, NC Department of Environmental Quality, NC Utilities Commission, Watershed Protection, NC Department of Transportation, Utilities, etc.
5. Phasing – Phasing is permitted with this approval. The development schedule states the following and shall be followed unless a new phasing schedule is approved. It is:

8/1/2022 – Submit for Construction Plans

1/1/2023 – Submit for Final Plans

3/1/2023 – Site Work Begins

3/1/2024 – Residential and Commercial Construction Begins

9/1/2025 – Some Residential and Daycare Completed

2/1/2026 – Congregate Care Facility Construction Begins

6/1/2027 – Congregate Care Facility Completed

3/1/2028 – Residential Completed

6. Sidewalks will be provided along both sides of all streets, but not alleys, with residences or other buildings fronting them. Sidewalks will be provided along one side of all other streets, but not alleys, that provide connections within the community but do not serve as building frontage. Street trees, either planted or preserved, will be provided along all streets.
7. Solid Waste Management. Solid residential waste is managed and shall continue to be managed by residential curbside recycling and solid waste pick-up. With regard to construction debris and non-residential solid waste removal, Applicant shall continue to contract with builders and contractors to dispose of the same appropriately.
8. Commercial Uses. The commercial component of the development shall be limited to locations shown on the Master Plan and the uses allowed within the development shall be all those uses now allowed or later added as allowed in the December 2008 Zoning Ordinance under Section 10.13 Table 1: Zoning Table of Permitted Uses under the Zoning Districts denoted as “O/I,” and “NB.” Irrespective of whether such uses are shown as permitted or as requiring a conditional use permit, all such uses shall be deemed allowed as of right within the Herndon Farms development. Building signage for the commercial uses shall comply with the Chatham County Zoning Ordinance in effect of the original approval date. Monument signs shall be allowed as shown on Site Details sheet provided with the application labeled Exhibit B.4 Conceptual Landscape Plan. Commercial components of the Herndon Farms development shall be accessible via public sidewalks, greenways, paths, or trails.
9. Lighting Plan Approval. All area lighting shall meet County standards and not adversely affect adjoining residential areas.
10. Permits. Any required State or Federal permits or encroachment agreements, including a commercial driveway permit(s) from NCDOT shall be obtained and copies submitted to the County prior to approval of a preliminary plat for each phase.
11. A commercial driveway access and permit for the western parcel to be used for the Wastewater Treatment Facility, shall be reviewed and obtained from NCDOT as shown on the latest site plan before any land disturbing activity. Any deviation from the proposed access drive, shall be reviewed by Planning staff and NCDOT.
12. Improvements. Off-site improvements required by NCDOT of any other agency shall be constructed at no cost to the County including the traffic improvements as stated in the most recent TIA and others as ultimately deemed warranted by the NCDOT following its analysis, if required.
13. The applicant must reach an agreement with the Chatham County Fire Marshal’s Office and North Chatham Fire Department regarding emergency vehicle access, on street parking restrictions, and provision of adequate off-street parking within the development prior to



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preparing construction drawings for the Construction Plan under the Subdivision Regulations. Off-street parking shall be provided for in accordance with Section 14 of the Chatham County Zoning Ordinance.

14. The Applicant shall demonstrate availability of adequate water and wastewater supplies to serve the property. Plans for provision of water supply shall be approved by the County prior to issuance of a Construction Plan for each phase. Such plans shall be in conformity with any County water policies then in effect and the Applicant shall pay all water fees and charges associated with the applicable phase, including then current water fees, review, and inspection charges, prior to submittal of the Construction Plan for each phase. The entire cost of extending public utility services if desired or required under County regulations shall be borne by the Applicant.
15. Adequate wastewater treatment service for the entire project area shall be designed and approved by the appropriate regulatory agency prior to issuance of a preliminary plat for each phase and constructed at no cost to the County. Adequate facilities for the spray irrigation of treated effluent from each phase of the project shall be designed, approved by the appropriate regulatory agency, and constructed at no cost to the County prior to issuance of a Certificate of Occupancy for any building within that phase of the project.
16. Equipment such as pumps and blowers will be appropriately insulated or buffered for noise reduction. Wastewater treatment plant blowers will be enclosed. All motor noise from the wastewater treatment plant will be subject to the provisions and restrictions of the Chatham County Noise Ordinance.
17. Moderate Income Housing. With the consent of the Applicant, and as an approximately equivalent alternative to and in lieu of the housing standards for Moderate Income persons set forth in Option A of the Compact Community Ordinance, the developer shall do the following: An agreed upon dollar amount via a contract with Chatham County supporting the payment in lieu option. The developer proposes \$45,000 for per affordable housing unit (151 x 5% as required by the CCO = 7.55 units). The developer shall enter into a contract with the County upon approval. The obligation set forth in the contract are zoning conditions that run with the land and may be enforced by the County by withholding any and all regulatory approvals.
18. A detailed tracking process shall be developed by the applicant and agreed to by county staff (Planning and Watershed Protection Departments) prior to any land disturbing activity occurring on the property. The tracking mechanism must ensure that the built upon area for the project is tracked for each subdivision or commercial lot and include any areas with impervious surface. The tracking mechanism must also include a process for reconciling the final built

upon area for each lot and include a linkage to the sizing of the stormwater devices. The tracking mechanism and all supporting documentation must be supplied to the county as part of any site plan or final plat submittal. Additionally, all documents must be provided to the county at the completion of the project and transferred to the Homeowner's Association. Upon completion of the project, the Homeowner's Association shall assume responsibility for tracking any additional built upon area allocations within the development. A detailed report of Built Upon Area calculations shall be provided by the developer to the County for each phase of the project to ensure the maximum 24% allowance is maintained.

19. A building permit shall be issued and remain valid at all times within three (3) years from the date of this approval becomes final and non-appealable or from the date any court order entered in an appeal regarding this approval becomes final and non-approvable, whichever is later. Failure to comply will void this approval and any site plans approved thereof and the project will be void.
20. The development may not be turned over to a Homeowner's Association until the county or other state regulatory agency has confirmed compliance with any required permitting.
21. The following waivers are approved as included in the application:

WAIVER NO. 1: Section 12.1 – Performance Standards – Commercial Component – applicant requests to not be limited to the 10,000 sq. ft. maximum in order to construct the 140,000 congregate care facility.

WAIVER NO. 2: Section 9.3 – Viewshed Buffer – the applicant requests a 50% reduction for the project area along US 15-501, Eastern development site.

WAIVER NO 3: Section 9.2 – Perimeter Buffer – the applicant requests a 50% reduction along the front area of the community project site, adjacent to US 15-501, with the exception of the area noted as Side E on Exhibit W.3.B which is proposed to be zero as allowed by the CCO Section 9.2 as adjacent to existing commercial. The buffers adjacent to residential areas being the Northern and Rear Eastern are to remain at 100 feet.

WAIVER NO. 4: Section 9.3 – Viewshed Buffer – the applicant requests authorization to impact the viewshed buffer for required utility crossing which will involve the removal of existing vegetation and some grading for those lines.

Standard Administrative Conditions

22. Fees. Applicant 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, building inspection, recreation and impact fees established from time to time.
23. Continued Validity. The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditions listed above.
24. Non-Severability. If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
25. 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.



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26. 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.

3. This ordinance shall become effective upon its adoption.

Adopted this 21 day of February, 2022

Karen Howard, Chair
Chatham County Board of Commissioners

Responsible Representative/Applicant
(By signing this document, you agree to all findings as noted and any conditions therefore imposed above)

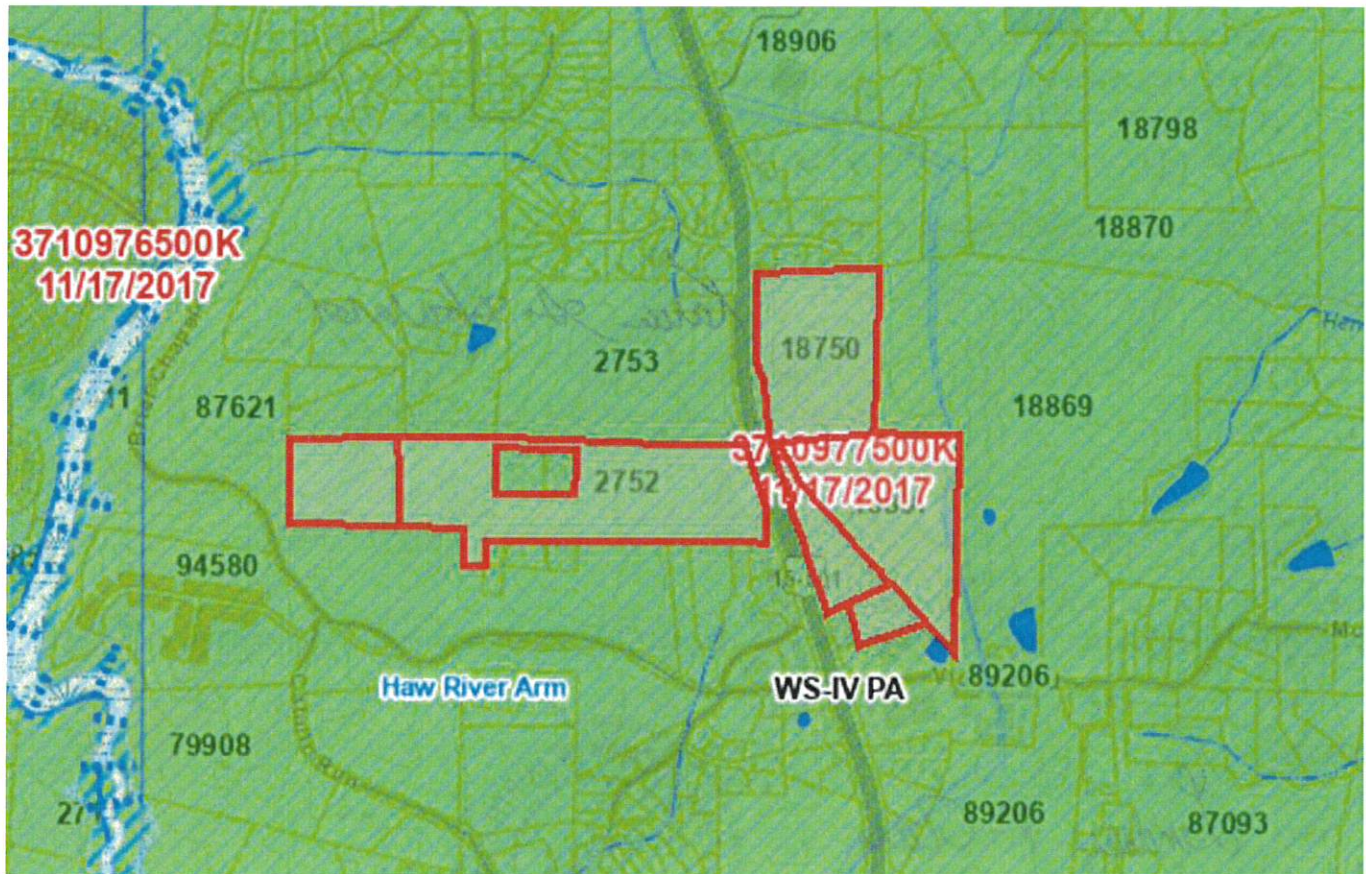
ATTEST:

Lindsay K. Ray, NCCCC, Clerk to the Board
Chatham County Board of Commissioners



ATTACHMENT A

Tax Parcels in their entirety are 93852, 2752, 18750, 18897, 18896, and 18909 being a total of approximately 97.86 acres, Baldwin and Williams Townships





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Exhibit B.3

