

The CC Planning Board, on 09/05/2023 voted 8-1 to recommend approval of the MC2 application for rezoning, and condition statement. Colbert voted in the minority.

MINORITY REPORT MANN'S CHAPEL 2 REZONING: SHELLEY COLBERT
Attachments: Application Section A ("Five Findings") with embedded comments
Application Exhibit C Trip Generation report

Background:

The "assemblage" in the application consists of the current .848 B-1 parcel (2642) an additional 4.61-acre parcel zoned CU-B-1 (2641), **and FIVE (5) small R-1 lots ranging in size from .15 acres to .25 acres that are outside of the designated commercial node in Plan Chatham.** In the aggregate, the five (5) R-1 lots total .87 acres, larger than the current/existing B-1 commercial use of .848 acre. The 4.61 CU-B-1 parcel appears to have a long history as timberland based on recorded UCC-1 financing statements in the Chatham County Register of Deeds. Only the B-1 parcel has been in use as a small commercial location.

The total acreage, as proposed, amounts to more than a 700% increase to the existing commercial use at the southwest corner of Mann's Chapel and 15-501. The proposed rezoning would expand business activity into a residential zone, is estimated to increase traffic by almost 4500 trips a day and proposes expansion of fossil-fuel based retail businesses with significant environmental, traffic and social risks.

Discussion:

The portion of the application concerning the rezoning of five separate R-1 lots has foreseeable consequences for fourteen (14) surrounding R-1 parcels, similar in lot size that are adjacent and/or contiguous and/or immediately across from the proposed rezoning on Cedar Village Road. The applicant errs in characterizing as "abandoned" the R-1 lots: they are not. All property taxes on all the lots have been paid and are current. One reason for the uninhabited residential buildings, according to Chatham County tax records, appears to be NCDEQ septic noncompliance noted in 2014.

None of the R-1 lots has frontage to 15-501. The R-1 lots are outside of the commercial center; rezoning them could have a cascaded, foreseeable, and negative effect on the fourteen additional, similar R-1 lots not included in the application, including their potential future uses for affordable housing, given the lot sizes and potential walkability to existing services. **This application will reduce opportunities for affordable housing through proposed re-zoning and removal of small R-1 lots on Cedar Village Road that are not part of the commercial node, and the inclusion of the R-1 lots in the application does not conform to the mapped goals of Plan Chatham.**

It is also worth noting that the CD-NB adjacent property (cited by the applicant in support of the rezoning), a furniture warehouse/retail store ("Furniture Follies"), ceased business activity in 2022 and is no longer open to the public; the owners have indicated on their business website that they have retired. No new business activity appears to have replaced the furniture store. This commercial example demonstrates how

commercial oversupply and saturation does not generate income or good jobs for the county, and there are other examples of long-time commercial vacancies along the 15-501 corridor within three miles of the proposed rezoning.

The application also fails to note that existing businesses within very short distances of the proposed rezoning already provide the same services that the applicant suggests will be provided through expansion, thereby increasing the likelihood of oversupply. There are already three other gas stations and convenience stores within 2.5 miles of the applicant's location: Petro Mart/BP- 200 feet; Eagles Gas .5 miles (11620 US Hwy15-501); Refuel Market 2.5 miles (45 Taylor Rd). Other automotive services within a mile include Brown's, CarSmart, and Chapel Hill Tire, and a little further south, CARS, Sanders, and several independent individual automotive repair businesses.

[The real reason for the size of the automotive "leak" in retail sales to other counties is not, as the applicant appears to suggest, a dearth of auto parts stores, but rather, the absence of major car dealerships that generate vehicle sales within the county. The propose rezoning will have a negligible effect on the automotive retail sales "leak" cited by the applicant.]

The creation of a relatively small number of retail jobs, most paying at or slightly above minimum wage (and many likely to be part-time), is not desirable in a county already struggling to identify affordable housing for low-wage workers. Poorly paying jobs will only continue to contribute to a shortage of affordable housing in Chatham and does nothing to decrease commuting from outside the county. The "expanded retail opportunities" in the application are almost entirely dependent on fossil fuel-related business; that is not a diversified commercial model for the site, nor does expanding fossil fuel-based businesses diversify the tax base in terms of identified, *existing businesses*. Critically, adding fossil-fuel based business is not sustainable for Chatham's environmental future and should not be encouraged or approved given the climate crisis.

The application indicates that the site as proposed will generate approximately 4500 vehicle trips a day (Exhibit C). A traffic impact assessment (TIA) is required but was not provided to the planning board for its consideration prior to its vote. The applicant asserts- but provides no evidence for- increased safety despite the volume of vehicle trips projected for the site. In the absence of a TIA and robust factual analysis, there is absolutely no expert evidence that the configuration in the proposed amendment is reasonably necessary to the promotion of the public health and safety, or that the increased traffic will not negatively impact surrounding residential areas along Mann's Chapel Road.

According to the US EPA, leaking underground fuel storage tanks are a leading cause of groundwater contamination. The expansion of fossil fuel storage tanks, as would be necessary to support the application, amplifies the environmental risks to local groundwater conditions. The applicant proposes to expand the number of fuel pumps but was unable to provide the planning board with the comparative sizes of the

underground tanks- existing and new- prior to the planning board vote. Unnecessarily expanding underground storage tank capacity, particularly given the number of existing, redundant business offerings in close proximity, is an enlarged environmental risk without a demonstrated need. At no point has the applicant made a case that it is reasonable or necessary to expand the number of fuel pumps from the status quo, or to increase the size of the underground storage tanks.

Minority Report Conclusions:

1. The applicant has proposed rezoning of five small R-1 residential lots as part of its application. The R-1 lots are outside the commercial node mapped in Plan Chatham, and they should not be approved for re-zoning for reasons noted above and attached in considerable detail. The potential negative impact to future affordable housing, patchwork R-1 adjacent properties, lack of 15-501 access and many other factors strongly argue against their inclusion.
2. Parcels 2641 (CU-B-1) and 2642 (B-1) already are zoned for commercial activity, and rezoning to achieve consistency for those two parcels is appropriate.
3. The application makes certain unsupported assertions concerning public safety and traffic resulting from the proposed expansion and configuration of the existing business and additional proposed retail. Until a valid TIA and other objective measures are presented, the applicant hasn't met its burden to demonstrate that the change is desirable or in the public interest.
4. The current proposal downplays or ignores significant environmental issues concerning fossil-fuel based businesses, including underground storage tank risks. The applicant has not adequately demonstrated that it is necessary or desirable to expand the number of pumps or the size of the tanks, given the number of existing businesses offering the same automotive services in close proximity to the applicant.
5. As a matter of policy, the county should be opposed to the **expansion** of fossil fuel-based business as a matter of long-term sustainability and fossil fuel obsolescence considering the climate crisis.
6. The retail economic arguments for the site are weak at best and frequently disingenuous concerning the extent to which THIS proposal addresses leaking revenue as I note elsewhere in attached comments. The proposed rezoning/use as described would result in generally low-paying retail positions, many of them likely to be part-time, and without generating the level of income needed to afford average housing costs in Chatham. More retail positions are likely to be automated in the future and thus eliminated or reduced.

I voted against recommending approval of the rezoning request because it does not meet two of the five findings, critically: Finding 2, Need and Desirability; and Finding 3, it fails to carry out the intent and purpose of adopted plans. As noted above and attached, please see comments with respect to R-1 rezoning, affordable housing, well-paying and sustainable employment jobs, existing conditions, environmental risks, traffic and safety, and long-term economic and environmental planning relative to fossil fuels and economic diversification.