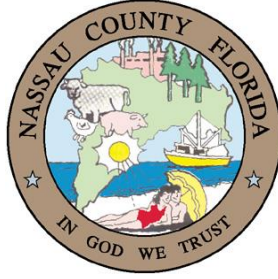


Nassau County
Planning and Economic Opportunity
Department
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Date of Hearing: September 5, 2017

Public Hearing Number: R17-004

A. General Information

Applicant: Chase Properties, Inc.

Owner: Harper Chapel, LLC

Request: Rezoning of approximately 24.45 acres from Commercial Highway Tourist (CHT) to Commercial Neighborhood (CN)

Applicable Regulations: Articles 5, 15 and 18 of the *Land Development Code (LDC)* (Ord.99-17, as amended); Policies ED.05.02, and FL.08.05 of the *2030 Nassau County Comprehensive Plan*

B. Site Information

Lot Size: 24.45 acres

Location: On the south side of SR200/A1A between Mentoria Road and Harper Chapel Road, tax parcel # 44-2N-27-0000-0001-0090

Directions: Head west on SR200/A1A to approximately .57 mile east of the I-95 interchange. Property is on south side of SR200/A1A.

C. Existing Land Uses

Subject Site: Vacant Land

Surrounding: North: Commercial (restaurant)
Vacant Land
South: Vacant Land
East: Vacant Land
West: Commercial (gas station/restaurant)

D. Existing Zoning

Subject Site: Commercial Highway Tourist (CHT)

Surrounding: North: Commercial Highway Tourist (CHT)
Open Rural (OR)
South: Open Rural (OR)
East: Planned Development (PD-ENCPA)
West: Commercial Highway Tourist (CHT)

E. FLUM Designation

Subject Site: Commercial (COM)

Surrounding: North: Commercial (COM)
South: Agriculture (AGR)
East: Multi-Use (MU)
West: Commercial (COM)

F. Background

The proposed rezoning comprises one parcel of 24.45 acres. The rezoning request is from Commercial Highway Tourist (CHT) to Commercial Neighborhood (CN). The CHT zoning district, as presently included in the Land Development Code, allows only a limited range of auto-related or tourist-related uses. The applicant is seeking to develop the subject property with medical/office uses that are not presently allowed in the CHT zoning district. The proposed rezoning is consistent with the existing Future Land Use designation of Commercial (COM).

The Commercial Neighborhood (CN) zoning district proposed for this site is a low-to medium-intensity commercial district intended to provide for the limited retail sales and service needs of County residents. It may also include the development of, professional, medical, financial and business offices or a variety of public or civic uses.

G. Analysis

1. *Is the proposed change contrary to the established land use pattern?*

No. Properties surrounding the subject property to the north and west are occupied by commercial uses which would either be permissible in the CN district or compatible with such uses with appropriate site design. Limited residential development (mobile home and single family) is located on properties adjacent to the subject property in the Open Rural (OR) district to the south. The Land Development Code has provisions for buffering of residential properties from commercial properties. New commercial development on the subject property will be required to meet these buffers.

2. *Would the proposed change create an isolated district unrelated to adjacent and nearby districts?*

No. While there are no other parcels in the immediate vicinity presently zoned CN, The CHT zoning on surrounding properties to the north and west allows for a limited range of auto- and tourist-related uses that are of greater or equal intensity to those permitted in the CN zoning district.

3. *Would the proposed change materially alter the population density pattern and thereby overload public facilities such as schools, utilities, streets, etc.?*

No. The proposed CN district allows only non-residential uses. It will not alter population density. It should have no impacts to schools or parks and recreation and minimal impacts to other public facilities.

4. *Are existing district boundaries illogically drawn in relation to existing conditions on the property proposed for change?*

No. However, The CHT zoning district presently allows only a limited range of auto-related or tourist-related uses. Development has progressed significantly along the SR200/A1A corridor, including the adoption of the ENCPA Sector Plan in 2011 which includes a substantial amount of property directly to the east of the subject property. The character of future development in this area is likely to be much more diverse than the typical auto-related uses allowed in the CHT district. It can be argued, fairly, that a more diverse commercial zoning district would be suitable for this area, such as the proposed CN district.

5. *Is the proposed change contrary to the long-range land use plans?*

No. The proposed rezoning will keep the property in compliance with the underlying Future Land Use Map designation of Commercial (COM). Generally,

parcels within 0.5 mile of the I-95/SR200 interchange are designated Commercial (COM).

The property directly to the east of the subject property is part of the adopted East Nassau Community Planning Area Sector Plan. It is specifically designated in the East Nassau Employment Center DSAP and the subsequent Market Street Preliminary Development Plan (aka Wildlight) for town-center uses such as restaurants, hotels, residential, retail sales, personal services, business and professional offices, recreation and open space, parks plazas, government uses, transit stations and other public uses. The proposed CN district should be compatible with the uses proposed on the adjacent property in the ENCPA Sector Plan.

6. *Do changed or changing conditions make the approval of the proposed zoning desirable?*

Yes. As mentioned previously, development has progressed along the SR200/A1A corridor, and the ENCPA Sector Plan was adopted in 2011 which includes a substantial amount of property near the subject property and the I-95 interchange. The character of future development in this area is likely to be much more diverse than the typical auto-related uses allowed in the CHT district. A more diverse commercial zoning district is suitable for this area, such as the proposed CN district.

7. *Will the proposed change adversely influence living conditions in the neighborhood?*

No. Existing residential development (mobile home and single family) is located on properties adjacent to the subject property in the Open Rural (OR) district to the south. The Land Development Code has provisions for buffering of residential properties from commercial properties. New commercial development on the subject property will be required to meet these buffers. With adequate site planning and review, most uses permitted in the CN district can be compatible with nearby residential uses. There should be no adverse impacts to living conditions in the area surrounding the subject property.

8. *Will the proposed change create or excessively increase traffic congestion or otherwise affect public safety?*

No. It is unlikely that the proposed Commercial Neighborhood (CN) district will allow uses that will increase traffic impacts beyond that of the intensive, auto-related uses permitted in the current CHT zoning district.

Future development on the site will be subject to fees assessed as part of the County's adopted Mobility Plan (see Ord. 2014-16). Funds collected through the mobility fee will be applied to prioritized transportation improvement projects in an area that has a rational relationship to the location of the development. Traffic

operational issues that may be created by the new development will also need to be resolved at the developer's expense if required by Engineering Services.

9. *Will the proposed change create drainage problems?*

No. All development will be required to meet all drainage standards as imposed by the Nassau County Roadway and Drainage Standards and the SJRWMD criteria.

10. *Will the proposed change be a deterrent to the improvement or development of adjacent property in accordance with existing regulations?*

No. The relatively low intensity of uses permitted in the CN district; the fact that much of the surrounding area is currently zoned for and/or occupied by existing commercial uses; and the buffering and design requirements of the current LDC should ensure that a permitted commercial use at this location will be a good neighbor to surrounding uses and should help to improve the area economically and aesthetically.

11. *Will the proposed change affect property values in the adjacent area?*

The value of adjacent properties should not be adversely affected since, as stated above, adequate site planning and review should allow uses permitted in the CN district to be compatible with nearby commercial uses.

The commercial, office or institutional uses at this location should provide needed services to the surrounding neighborhoods, which may increase the value of surrounding property over time.

12. *Will the proposed change constitute a grant of special privilege to an individual owner as contrasted with the public welfare?*

No. The proposed CN district will be in keeping with the character of this area. The commercial, office or institutional development that may occur should provide needed services to the surrounding neighborhoods and may also result in job creation for the County. The change does not grant a special privilege as contrasted with the public welfare.

13. *Are there substantial reasons why the property cannot be used in accord with existing zoning?*

No. However, as stated previously, the character of future development in this area is likely to be much more diverse than the typical auto-related uses allowed in the CHT district. A more diverse commercial zoning district is suitable for this area, such as the proposed CN district.

14. Are there other sites in this general location already zoned to permit the proposed use?

No. However, as stated previously, while there are no other parcels in the immediate vicinity presently zoned CN, The CHT zoning on surrounding properties allows for a limited range of auto- and tourist-related uses that are of greater or equal intensity to those permitted in the CN zoning district.

15. Is the width and area of the parcel sought to be rezoned adequate to accommodate the proposed use?

Yes. The subject property is capable of meeting the minimum lot size and frontage standards for the CN zoning district found in Article 15 of the Land Development Code.

H. Staff Findings

1. The proposed rezoning is in compliance with the underlying Future Land Use Map (FLUM) designation of Commercial (COM).
2. The proposed rezoning application is compliant with the requirements of Sec. 5.02 of the County's Land Development Code, and meets the analysis criteria described in Part F. (1-15) of this report above.
3. The proposed rezoning application is compliant with the intent, locational and dimensional standards for the Commercial Neighborhood (CN) zoning district found in Article 15 of the County's Land Development Code.
4. Future uses on the subject property will be required to provide adequate screening and buffering from any surrounding residential uses as a part of the site plan review process per Sec. 5.07 of the County's Land Development Code.

QUASI-JUDICIAL HEARING PROCEDURES

Florida Statutes and the Courts of Florida require that your rezoning application be heard as a Quasi-Judicial Hearing.

A Quasi-Judicial Hearing, by state and case law, is different than a regular hearing conducted by this Board. A Quasi-Judicial Hearing is less formal than a court hearing but similar in procedures and evidence issues.

In a Quasi-Judicial Hearing, the applicant has the burden of demonstrating by competent substantial evidence that his/her rezoning request meets requirements of the County Zoning Code, Comprehensive Plan and other applicable regulations.

The applicant is entitled to be represented by counsel.

The only material or relevant evidence is that which addresses the applicable codes and/or Comprehensive Plan. The hearing procedures will be:

1. Staff will be sworn and shall describe the applicant's request, provide staff's recommendation and present any witnesses in support of staff's recommendation. Staff shall have fifteen (15) minutes.
2. The applicant and others presenting evidence will be sworn and shall state their name, address and subject to which they will testify. The applicant or its agent/attorney may elect to waive their presentation and to rely on the application, recommendation, and staff comments, reserving the right to address the Board if any evidence is presented against the application. Evidence presented must specifically address the criteria in the Zoning Ordinance and or Comprehensive Plan. The applicant, or his/her attorney/representative, will have an opportunity to present evidence for the application and will have fifteen (15) minutes for its presentation. If the applicant has witnesses, the applicant will indicate the name of each witness and the subject to be addressed. The applicant's witnesses will each have five (5) minutes. The applicant may also call the Zoning Official or other staff member who are present as a witness and ask them questions. Again, the time limit for questions is five (5) minutes.
3. Those who present evidence against the application will be sworn in and will be provided five (5) minutes each to present evidence and witnesses that address the criteria. If a group opposes the application, they may also be represented by counsel and shall state that now. They may also call the applicant, Zoning Official or other staff members that are present as witnesses and ask them questions, subject to the five minute time limit. Anyone presenting repetitious evidence or evidence that does not address the criteria will be directed to stop and address the criteria.
4. The applicant or its attorney may then cross examine those presenting evidence against, subject to control by the chair and county attorney. Cross-examination shall be five (5) minutes for each witness.
5. Sharing or transferring time is not allowed. Persons presenting evidence will address the Board, at the podium, and if there are documents or photos they must be presented when the particular individual is testifying. No documents will be returned, as they become a part of the record. Cross examination, if any, will be to the point and controlled by the chairman with the assistance of the county attorney. As a Quasi-Judicial Hearing, numbers of individuals for or against a particular item will not be considered. The meeting is being taped; therefore there can be no applause or outbursts.

6. The Office of the County Attorney represents the Board and provides advice to the Board including advice as to the procedures and the admissibility of evidence.
7. The Board will afford members of the audience who have not presented evidence for or against three (3) minutes each to address any information provided. The members of the public will not be sworn in.
8. The applicant will be permitted to provide rebuttal if any (a maximum of ten (10) minutes).
9. Staff may have five (5) minutes to provide final comments to the Board.
10. The Board will then close the public hearing and will discuss the application and may ask questions of the applicant, staff or those presenting evidence against or witnesses for the application.
11. The strict rules of evidence applicable to a court proceeding will not be utilized; however, the Board, with the assistance of the attorney, may exclude evidence that is not relevant or material or is repetitious or defamatory. Again, the Quasi-Judicial procedures are required by law and all those participating need to be aware of the procedures. Anyone who fails to follow the procedures may be required to stop his/her presentation or relinquish their time.

To be fair to everyone and in order to follow the procedures, if you have any questions please call the County Attorney's Office at (904) 530-6100 or the County's Planning and Economic Opportunity Office at (904) 530-6300.