

**COPELAND PROJECT  
REQUEST FOR CONDITIONAL USE DISTRICT AND  
PERMIT**

**5.6 ACRE PARCEL LOCATED NEAR NORTHWEST  
QUADRANT OF U.S. HIGHWAY 64  
AND BIG WOODS ROAD (S.R. 1716)**

**December 19, 2005**

## DEVELOPMENT TEAM

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Soil Scientists

## **EXHIBITS**

1. Exhibit A – Legal Description of Property/Survey
2. Exhibit B – Site Plan
3. Exhibit C – Driveway Entrance/Access Approvals (NCDOT and USACOE)
4. Exhibit D –Setbacks and Landscape Plan
5. Exhibit E – County Road Map
6. Exhibit F – County Tax Map
7. Exhibit G – Traffic Plan
8. Exhibit H – Wastewater Management: Commitment Letter from Heater Utilities, Inc.  
and Soils Report (S& EC)

## STATEMENT OF PURPOSE

William Copeland (“Applicant”) is applying to Chatham County for approval of a conditional use district and a conditional use permit for use of a 5.6 acre property for restricted business purposes. The property is located near the intersection of U.S. Highway 64 and Big Woods Road. The property is located at the northwest quadrant of the intersection. Because of the currently existing and anticipated residential growth on Big Woods Road, as well as approved residential growth on Jack Bennett Road, conveniently located commercial services will be at a premium in this area. As such, the property is ideally located for commercial use. The property is currently zoned RA-5 but its location, so close to this important intersection, decreases its viability as a residential lot in the future. This request is to convert the property to a conditional use district for restricted B-1 uses (delineated below) and to grant a conditional use permit for those uses.

No specific tenant or purchaser has been finalized at this time, although it is the intent and desire of the Applicant to locate a restaurant on the property to benefit local residents and users of Highway 64. An illustrative site plan for a restaurant use is submitted herewith. Irrespective of the actual, ultimate tenant, the driveway location and minimum exterior buffers and minimum landscaping will be unchanged. Applicant specifically requests that, if the ultimate tenant requires a different site plan or if additional structures are proposed in the future, Applicant be allowed to request site plan revision only (review by Planning Board and approval by Commissioners) in lieu of being required to submit for an amendment to the conditional use permit. Because the site plan process will affect only the interior of the property, the exterior landscaping and driveways having already been approved, it is suggested that site plan review will be more than sufficient. The request is made pursuant to Sections 5 and 15 of the Chatham County Zoning Ordinance. As is set forth in detail in this application, the proposal is consistent with the provisions of the zoning ordinance and the County Land Conservation and Development Plan.

The illustrative restaurant site plan shows a building approximately 13,000 square feet in size with on-site parking and landscaping consistent with and, in some cases, exceeding the requirements of the zoning ordinance. The requested use, if approved, will make a positive contribution to the welfare of the citizens of Chatham County in the form of accessible products and/or services and will do so with a conscious minimization of the impact on neighboring properties.

INSERT APPLICATION

## LEGAL DESCRIPTION OF PROPERTY

All that approximately 5.6 acre tract of land located at the northwestern corner of the intersection of U.S. Highway 64 West and Big Woods Road (S.R. 1716), as the same is depicted on the attached survey entitled "Property of Palmer Copeland Estate to be Conveyed to Ronald Copeland," by Smith and Smith Surveyors, dated December 5, 2005 and attached hereto as **EXHIBIT A** .

**SCHEDULE OF  
ADJACENT LAND OWNERS**

1. Barbara C. Horton  
Ernest J. Horton.  
2052 Farrington Road  
Apex, NC 27502
2. Cotentnea Creek Development Company  
P.O. Box 1010  
Garner, NC 27529
3. United States of America  
P.O. Box 908  
Pittsboro, NC 27312
4. United States of America  
Post Office Box 144  
Moncure, NC 27559

## DESCRIPTION OF THE PROJECT

The Applicant intends to develop the parcel generally in accordance with the site plan attached hereto as **EXHIBIT B**. Because the precise and specific uses of the property are not fully known at this time, the request is for establishment of a conditional use district that would allow certain restricted B-1 uses. Applicant requests that all B-1 permitted uses be allowed other than the following which would not be allowed on the property:

1. Amusement enterprises such as pool, bowling, roller rink when housed entirely within a permanent structure
2. Bus passenger stations
3. Funeral homes, embalming, crematoria
4. Fur storage
5. Laundries or laundromats and dry cleaning
6. Mobile home sales and service
7. Pawnshops
8. Radio and television stations and their towers.

Upon establishment of the B-1 conditional use district, Applicant requests a conditional use permit approving any of the allowed uses generally in accordance with the site plan attached as **EXHIBIT B**. Because it is anticipated that the property may be used as a restaurant parcel (although that is not definitive at this time) the site plan shows a representative building plan for a restaurant. The building plan is illustrative only as to the configuration of the building and parking area which would both be subject to change. Once the actual use is finally determined (if it is different from the site plan attached), a site plan conforming to applicable impervious surface, stormwater, landscaping and set-back regulations will be followed. It is requested that, in such case, the Applicant be required to submit for site plan review rather than for an amendment to the conditional use permit.

### ***Location:***

- (1) Public Highways. The property adjoins Big Woods Road (S.R. 1716).
- (2) Private Roads. There are no private roads involved. The attached site plan shows the driveway entrance to the property that has received preliminary approval from both the U.S. Army Corps of Engineers and the NCDOT. **EXHIBIT C**.
- (3) Current Zoning. The current zoning of the site is RA-5.
- (4) Watershed Classification. The watershed classification is WS-IV-PA. The project is designed for a curb and gutter system and the actual projected impervious surface (using the illustrative restaurant parcel plan) is 24%. Applicant reserves the right to re-



engineer the parking lot such that a non-curb and gutter system would be used, thereby allowing impervious surface up to thirty-six percent (36%) impervious surface or any other maximum allowed by the Watershed Protection Ordinance.

(5) Major Wildlife Areas. This site is not in any area designated as a natural area according to the “Inventory of the Natural Areas and Wildlife Habitats of Chatham County, North Carolina.” This site is not in a natural heritage area as designated by the “B. Everett Jordan Lake Project Inventory of Rare, Threatened and Endangered Species and Natural Community Inventory by Harry E. LeGrand, Jr., North Carolina Natural Heritage Program, dated December 1999.U.S. Army Corps of Engineers.”

(6) Size in Acres of Site. The size of the site is approximately 5.6 acres.

(7) Utility or Other Easements. The tract is subject to rights of way in favor of the U.S. Army Corps of Engineers for Big Woods Road.

(8) Current Use. The site is currently unimproved.

(9) Current Contents of Site. The site is currently unimproved.

(10) Other Conditional Use Permits Granted for the Site. The site has not previously been granted a conditional use permit.

***Description of Use:***

The proposed use of the property is grounds and facilities for the specified B-1 uses.

***Site Plan and Drawing:***

The preliminary site plan attached as **EXHIBIT B**, describes the site in detail. An illustrative building plan is shown for reference. The exterior landscaping, however, will be as shown on the attached **EXHIBIT D**.

(1) Existing Buildings. There are no existing buildings.

(2) New Buildings. The proposed new building is to be located generally as shown on the site plan attached hereto as **EXHIBIT B**. The footprint of the anticipated building will be approximately 13,000 square feet.

(3) Landscape Plan. The attached landscaping plan calls for an appropriate landscaping buffer between the building and the residential uses to the north and west. To the extent that the site plan is changed dependent upon the use or number of uses, at a minimum, the minimum required buffers shown on the landscaping plan will remain. In

addition, the Chatham County screening and buffering requirements from Table 6-A of the Design guidelines will be followed with respect to all adjoining properties. The parking lot landscaping also meets the Zoning Ordinance requirements set forth in Section 12.2. Please see the Landscape Plan site plan attached as **EXHIBIT D**.

(4) Screening/Buffering Plan, Setbacks. As to screening and buffering, see above. As to B-1 setbacks, all such setbacks, including the 50 foot front set back will be complied with as indicated on **EXHIBIT D**. The parking lot will be more than 10 feet from the public right of way as required by section 12.2 of the Zoning Ordinance.

(5) Natural Preserved Areas. Applicant intends to retain a majority of the natural areas shown on the plans subject to selected thinning for visibility purposes. To the extent that the site plan is changed dependent upon the use or number of uses, at a minimum, the minimum required buffers shown on the landscaping plan will remain.

(6) Site Boundaries with Adjacent Properties. The boundaries between the site and adjacent properties are shown on the site plan. The names and addresses of adjoining land owners are provided with this application.

(7) Parking. The proposed parking areas for employees and customers are shown on the draft site plan. Section 12 of the zoning ordinance requires at least 1 space per three restaurant seats, plus ten additional spaces. Thus, for a 200 seat restaurant, at least 77 spaces would be required. The site plan shows 77 spaces. All stacking requirements will be complied with if needed for the ultimate business user.

(8) Sign Location, Type and Size. Signage will comply with Section 13.7 of the Zoning Ordinance. Because the property has 990 feet of frontage, it is technically entitled to 1,980 total square feet of signage. The main sign will be a free-standing sign at the southeast corner of the property. A draft depiction of a potential sign and its relative size are shown on **Exhibit D**. The free-standing sign will be no larger than 150 square feet and will not be any higher than thirty feet off the ground. Its appearance and location have been approved by the Appearance Commission. The secondary signs will be limited to an entrance sign, directional signs and possibly a sign on the exterior of the structure. No sign will exceed a size of 150 square feet. All signs will comply with the Chatham County Design Guidelines.

(9) Areas Reserved for Future Development or Improvements. The balance of the property is reserved for possible future development.

(10) Lighting Plan. The drafted but as yet unapproved Chatham County Lighting ordinance will be followed.

(11) Percentage of Impervious Surface. The plan, including the parking lot, driveway and building, contains a proposed impervious surface of 24%.

(12) Topographical Description of Site. A topographical map is provided as part of the site plan attached as **EXHIBIT B**.

(13) County Road Map. A county road map identifying the location of the property is provided as **EXHIBIT E**.

(14) County Tax Map. A copy of the county tax map of this site is provided as **EXHIBIT F**.

***Start and Completion Projections:***

The projected start date for construction of the structure is estimated to be in the Fall of 2006. Depending on the start date, the projected completion date is estimated to be one year later.

***Adjoining Property Owners:***

The names and addresses of the adjoining property owners are on the attached schedule.

***Reference to Existing County Plans:***

Because of its location at the commercially strategic and convenient crossroads of U.S. 64 and Big Woods Road, the project meets and conforms to the Chatham County Land Conservation and Development Plan (the "Land Use Plan").

At the outset of the Land Use Plan, two fundamental policies are set forth, both of which are met by this proposal. The first general policy is that land development will reflect balanced growth by, in part, ensuring that development is "guided to suitable locations and is designed appropriately." *Land Use Plan, p. 1*. This proposal is certainly in a suitable location in that it is at the intersection of a major, four lane, east-west corridor between Apex-Cary-Raleigh and Pittsboro. Further, the three residential subdivisions immediately contiguous to this Property on Big Woods Road have over 1,000 residential lots approved. The intersections with U.S. 64 are the most logical places to which commercial uses should be guided. With the widening of US 64 and the large subdivisions that exist as its neighbors, this property has lost its utility as a single residential lot but has become a logical place for commercial uses. At the next intersection westward on US 64 (Mount Gilead Church Road), three of the four quadrants are commercial uses. Common sense and market forces virtually demand that commercial uses be located at intersections of major highways and their crossroads with residential arteries. There is no question but that the residents in the 1,000 homes within a few miles of this intersection will desire services and products. Apart from those who live or will live nearby, patrons of the Jordan Lake recreation area will benefit from the convenient location at the intersection of U.S. 64 and Big Woods Road.

The location is suitable and the design will conform to or exceed all County standards set forth in the design guidelines and other applicable ordinances.

The second general policy of the Land Use Plan is that development be open, proactive and cooperative. Because the process involved is a request for a conditional use permit, a public hearing will be held after a public advertisement is published. The property will be posted with signs giving notice of the public hearing on the matter. The project has been designed specifically to take into account nearby residential areas and to fold it nicely into the existing environment. The Applicant is part owner of Apex Nurseries, located on Highway 751 in Chatham County. The landscaping for this project will be above common expectations and implemented with the dual intent of beautifying the property and buffering the adjoining residential uses.

In addition to conforming to the general policies of the Land Use Plan, the proposal meets with the relevant Major Recommendations of the Land Use Plan as well. The proposed development meets squarely with recommendations 9, 12 and 13 which are the recommendations that relate specifically to commercial development. The property is located in what would certainly be an “economic development center” and a “cross-roads commercial center” under the Land Use Plan although those zones have never been formally adopted. Further, it is neither “strip commercial development” nor is it located in sensitive resource areas.

The Land Use plan also states the following objectives that are met by the current proposal:

1. “Growth consists of a mix of different types of development” *Land Use Plan,, p. 9*
2. “Development is guided to appropriate locations and is designed appropriately for its setting.” *Land Use Plan, p. 9*
3. “Site commercial uses along major highways in clusters at specific, designated locations. . .” *Land Use Plan, p. 10.*
4. “Site commercial clusters so that they might be able to be served by transit in the future, especially along . . .U.S. 64 east of Pittsboro.” *Land Use Plan, p. 10.*
5. “Site commercial clusters so that they extend up side roads off main thoroughfares . . .” *Land Use Plan, p.10*
6. “The Chatham Plan supports: . . . Cross-road commercial centers in designated rural locations.” *Land Use Plan, p. 27*

## FINDINGS REQUIRED BY ZONING ORDINANCE

The Chatham County Zoning Ordinance requires that the Board of Commissioners make five affirmative findings in establishing a conditional use district and in granting a conditional use permit. All five findings are supported by this application.

***Finding #1:***        *The use requested is among those listed as an eligible conditional use in the district in which the subject property is located or is to be located.*

(1)    Validation of Use in Zoning Ordinance:        The requested uses are all allowed uses within the requested B-1 conditional use district and, as such, are eligible conditional uses within the district.

(2)    Land Development Plan Reference: This application is consistent with the Land Use Plan. Please see the discussion under "Reference to Existing County Plans" above.

***Finding #2:***        *The requested conditional use permit is either essential or desirable for the public convenience or welfare.*

(1)    Need and Desirability: The proposed business uses will be beneficial to the County by providing necessary goods or services to the local citizenry, by increasing ad valorem real and personal property tax revenue and by adding to the number of local jobs available to County residents. With the widening of U.S. 64, the continuing viability of this site as a residential parcel has been considerably diminished. In addition, the proximity of so many residential lots and the relative absence of nearby commercial uses leads to the conclusion that conversion of the property from residential to commercial is appropriate. Given the significant residential growth in the area, commercial and business uses will certainly be in demand in this location.

(2) Survey of Similar Uses: The anticipated use as a family restaurant is needed in the area. The closest sit- down restaurants are located in Pittsboro and many miles north in the 15-501 corridor. The same can be said for all of the other possible uses requested. Many people living at The Preserve and other existing subdivisions on Big Woods Road travel long distances for restaurant service. Otherwise, the market will dictate desirability of other allowed B-1 uses.

(3)    Public Provided Improvements:        No additional public improvements will be needed for this project.

(4)    Tax Considerations:        Although it is difficult to predict with precision the tax revenue benefit to Chatham County, it is expected that this project will result in an increase in assessed value of the subject property. Tax revenue will be generated by improvements made to this real property, which is now being taxed as residential real

property. The current prorated ad valorem real property tax revenue generated by the 5.6 acres at issue is approximately \$706.62 annually. The proposed business use and the attendant new commercial structure(s) will add property tax revenues. Assuming a very conservatively estimated post-construction combined value of the land and improvements of \$2,500,000.00 and using the current combined tax rate of \$ .657 per \$100 dollars of assessed value, the ad valorem real property tax revenue alone would increase to approximately, \$16,425 annually, a twenty-three fold increase. The value and the associated tax revenue will only increase with time. Demands on County services will be minimal. This use will not increase the County school population, will not require infrastructure improvements from the County and will have no significant impact on County fire, law enforcement or rescue services.

In addition, the County can expect to generate sales tax revenue from the commercial operation that would not be available if the parcel remains residential.

(5) Employment: After the property is built-out and operational, it is expected that there will ultimately be several full-time employees. If a restaurant is the ultimate user, approximately five full-time employees are anticipated. There will be numerous part-time wait staff and other restaurant help as well. Construction of the structure will provide temporary employment for a number of persons involved in the building trades and professions. Although it is not currently possible to describe the salary ranges of those employees, some of the personnel will be professional skilled employees who will be appropriately compensated. Compensation of all employees is expected to be competitive in the local market.

***Finding #3:*** *The requested permit will not impair the integrity or character of the surrounding or adjoining districts, and will not be detrimental to the health, safety, or welfare of the community.*

This parcel is ideally suited for a B-1 district. It sits very near the intersection of U.S. 64 and Big Woods Road. The property is bounded on the west by a 5.15 acre lot in a large lot residential subdivision (Windfall Creek). It is bounded on the north by a 4.3 acre lot in the same subdivision. The minimum buffer of 15 feet has been expanded to 20 feet on each of those sides and great care has been given to the landscape plan to ensure that large evergreen plantings are established in addition to the existing natural, wooded buffer that already exists. Thus, the adjoining RA-5 district will not be impaired. Rather it will be enhanced by the addition of a needed, unobtrusive commercial use nearby. The proposal is certainly in character with the existing uses. The proposal will not be detrimental in any way to the health safety or welfare of the community.

The Appearance Commission reviewed the plan in detail and approved it.

The parcel is located outside the Critical Area associated with Jordan Lake and, thus is an excellent candidate for low-impact commercial.

(1) Emergency Services: The uses are expected to make very limited demands on fire and police protection and emergency services. This is certainly true as compared to other possible uses of the subject property, such as residential.

(2) Traffic: The site will have no significant impact on area traffic. A traffic review performed by Ramey Kemp & Associates, Inc. for the parcel concluded that the intersection will function at an acceptable levels of service whether or not the proposed site is developed. **EXHIBIT G.** Both the N.C. DOT and the U.S. Army Corps of Engineers have concluded that the driveway proposed will be acceptable.

(3) Visual Impact and Screening: This project is designed as much as possible to have a minimal impact on neighbors. The attached landscape plan **EXHIBIT D,** evidences compliance with applicable buffering and screening requirements.

(4) Lighting: Exterior lighting will be down-lighting with direct glare shielded from adjoining roads and properties. The lighting will be in compliance with the draft Chatham County Lighting Ordinance.

(5) Noise: The proposed uses will produce ordinary levels of noise. No industrial or significant noise-generating activities or uses are proposed.

(6) Chemicals, Biological and Radioactive Agents: Given the proposed uses, none are anticipated.

(7) Signs: Signage will comply with Section 13.7 of the Zoning Ordinance. Because the property has 990 feet of frontage, it is technically entitled to 1,980 total square feet of signage. The main sign will be a free-standing sign at the southeast corner of the property. A draft depiction of a potential sign and its relative size are shown on **Exhibit D.** The free-standing sign will be no larger than 150 square feet and will not be any higher than thirty feet off the ground. Its appearance and location have been approved by the Appearance Commission. The secondary signs will be limited to an entrance sign, directional signs and possibly a sign on the exterior of the structure. No sign will exceed a size of 150 square feet. All signs will comply with the Chatham County Design Guidelines.

***Finding #4:*** *The requested permit will be consistent with the objectives of the Land Development Plan.*

(1) Land Development Plan Reference: This application is consistent with the Land Use Plan. Please see the discussion under "Reference to Existing County Plans" above.

(3) Watershed Considerations: The watershed classification is WS-IV-PA. The actual projected impervious surface is 24%. The site plan projects the largest possible use

with the idea that any smaller restaurant or other approved use will have less impact and will, by extension, require less impervious surface coverage.

***Finding #5:***      *Adequate utilities, access roads, drainage, sanitation and/or other necessary facilities have been or are being provided.*

(1)      Water Source and Requirements: The improvements will rely on the County water system. The proposed uses will not appreciably tax the County's water resources. The County Public Works Director, Will Baker, has advised that the County will accept the waterlines and provide water for this property.

(2)      Wastewater Management: Wastewater will be disposed of either by treatment by Heater Utilities or by conventional septic methods. Heater Utilities, the owner of the wastewater treatment plant at The Preserve at Jordan Lake has committed to provide as much as 8,000 gpd of wastewater treatment. Alternatively, soils testing on site has been performed by Soil & Environmental Consultants. Adequate soils exist to serve the property (if the intensity of the use is reduced). Submitted with this Application as **EXHIBIT H** are the commitment letter from Heater Utilities, Inc. and the soils report dated July 11, 2005.

(3)      Access Roads: The subject property directly adjoins Big Woods Road.

(4)      Stormwater Runoff: A 10,569 square foot detention basin (volume of 21,876 cubic feet of which 15,854 cubic feet are storage) will capture the first 1" of impervious runoff. The basin is sized sufficiently to absorb the "one year, 24-hour storm" (approximately 3" of rain). The basin will be located so as to minimize flow from the site during rain events. Neighboring properties should not experience increases in runoff except in unusual rain events.

## CONCLUSION

The proposed application is consistent with the five necessary findings and will enhance the area by adding needed, attractive commercial uses. The applicant respectfully requests that the request for a conditional use district and permit be granted.