



**CHATHAM COUNTY
BOARD OF COMMISSIONERS
AGENDA ABSTRACT**

ITEM NUMBER:
MEETING DATE:
7-17-06

PART A

Subject:

Request by **Jesse Fearington** for a Conditional Use Permit for a Specialty Retail Center with Out Parcels (i.e. retail food/grocery store, banks, drug stores, eating and drinking establishments, professional and business office use) on approximately 29.63 acres of a 59.58 acre tract located at the NW corner of US 15-501 N and Morris Rd. (SR 1527), Baldwin Township.

Action Requested:

See Recommendations.

Attachments:

The following was distributed prior to the May 15, 2006 Public Hearing:

1. Fearington Place application booklet

Included in this packet:

1. A revised application and statement of purpose received May 1, 2006.
2. Minutes from the May 10, 2006 Appearance Commission meeting.
3. E-mail from Thomas Bender, Chatham County Fire Marshall dated June 9, 2006.
4. E-mail from Thomas Boyce, Environmental Health Soils Specialist, dated May 25, 2006.
5. Supplemental information and sign up sheet received at the Public Hearing on May 15, 2006.
6. E-mail from Roy Lowder, Interim Director Chatham County Public Works Department, dated May 19, 2006.
7. Letter from Martin Spritzer dated May 13, 2006.
8. Fax from Nick Robinson, Attorney with letter from David Monroe dated May 12, 2006.
9. Fax from Jessie Knight, NCDOT, dated April 20, 2006 & map.

Submitted By:

Keith Megginson, Planning Director

Date

County Manager Review:

Charlie Horne, County Manager

Date

This abstract requires review by:

County Attorney

Date Reviewed

Finance Officer

Date Reviewed

Budget Officer

Date Reviewed

PART B

RE: Jesse Fearington – Conditional Use Permit

Introduction / Background / Previous Board Actions:

A quasi-judicial public hearing was held on this project on May 15, 2006 and the minutes are attached to the zoning district request portion of the application. The conditional use permit cannot be approved unless the zoning district change is approved. It is recommended that you address the conditional use permit at this time regardless of your recommendation to the Board of Commissioners in case the Commissioners decide to proceed with consideration of the conditional use permit.

Issues for Further Discussion and Analysis: Before a conditional use permit may be approved the Board of Commissioners is required to make five findings listed in the Chatham County Zoning Ordinance and shown below:

1. The use requested is among those listed as an eligible use in the district in which the subject property is located or is to be located.
2. The requested conditional use permit is either essential or desirable for the public convenience or welfare.
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.
4. The requested permit will be consistent with the objectives of the Land Development Plan.
5. Adequate utilities, access roads, drainage, sanitation, and/or other necessary facilities have been or are being provided.

The five (5) findings have been addressed in the application on pages 14 through 18 with supporting documentation attached. It is the staff opinion that Finding #1 could be made if the zoning district is changed to conditional use business district. It is the staff opinion that Finding #2 may be made from the standpoint of desirable for tax revenues and jobs but not from being essential for the market of goods and services. Finding #3 could be argued but may be made with conditions. Finding #4 is addressed in the zoning district notes and it is the staff opinion that it is not consistent with the specific recommendations of the Plan although some policy objectives are addressed. Finding #5 is supported in the application and may be made.

The applicant addresses Finding #2 from the standpoint of increased job opportunities, increased property tax, and increase in sales tax revenue. The applicant also addressed the desirable intersection, with a traffic signal, that was created during the widening of US 15-501. The application states that it is the only lighted intersection between the Town of Pittsboro and Cole Park Plaza. Another such intersection exists at US 15-501 and Jack Bennett Road. The Marketing Analysis provides information on existing non-residential uses and square footage of those uses. It does not appear to include the approved but not yet built non-residential uses such as Briar Chapel, Williams Corner, Chatham Downs, and projects within the Town of Pittsboro's jurisdiction. It is approximately 12 miles from the Court House circle in Pittsboro to the Orange County line. This proposal is approximately 4 miles south of the Orange County line and 8 miles north of Pittsboro. The square footage of non-residential uses currently under construction is Chatham Downs with 117,000 and various projects within the Town of Pittsboro with 743,100 (square footages are taken from a development spreadsheet that was drafted for a joint meeting between the Town of Pittsboro and Chatham County elected boards on February 22, 2006).

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Issues for Further Discussion and Analysis – con't**

The square footages for non-residential uses that have been approved but not yet begun are Briar Chapel with 512,000, Williams Corner with 348,500, and the Town of Pittsboro with 232,000. These square footages total approximately 1.9 million. Existing square footage totals approximately 500,000. Briar Chapel was approved under the provisions of the Compact Communities Ordinance. Section 6.5 of said Ordinance states there shall not be less than 100,000 square feet of commercial development. It also specifies a time table for construction of the commercial based on percentages of lots on approved final subdivision plats. At least 25% of the commercial area shall be developed before 75% of the lots on subdivision plats receive final approval and 50% of the commercial area shall be developed before 90% of the lots on subdivision plats are approved. It is a staff concern that approval of additional commercial area along US 15-501 will significantly undermine the market of approved and required commercial development. The applicant's Market Analysis is attached as Item #4. The Board may want to consider the list of the various commercial uses the applicant has requested and determine if all are to be allowed, if the request is approved.

The applicant addresses Finding #3 from the standpoint this newly created intersection is signalized and creates a four-way commercial crossroads. The application outlines buffering, berming, landscaping, and other design features in keeping with the surrounding area landscape. Major flows of traffic will be located on the secondary road (Morris Rd.) instead of US 15-501 where a right-in and right-out only entrance will be placed. The applicant met with neighboring landowners to discuss the project. NCDOT approved their suggested request to not align the Morris Rd. entrance with the entrance into the Kentview subdivision. The Appearance Commission states in the minutes from their meeting they were impressed with the design layout of the project and the sensitivity made to the residents in the area. The minutes of that meeting are attached.

The applicant addresses Finding #4 in the notes for the zoning district change request and the staff review is also found there.

It appears the applicant has provided sufficient information to support Finding #5.

Recommendation: It is the Planning Department opinion that all five required findings cannot be made and therefore the request should be denied. The Planning Board (with a vote of 7 Board members voting for approval of the request; 1 Board member voting against approval; and 1 Board member abstaining – note: Mr. Walker had left the meeting at this time) voted to approve the request with the following eleven (11) conditions:

1. All lighting shall meet the requirements of the draft Chatham County Lighting Ordinance and where specified on the site plan shall be cutoff shoe box lighting.
2. Signage shall be as specified on the site plan. Signage shall meet the requirements of the zoning ordinance for a Business (B-1) zoning district.
3. The recommendations from the Appearance Commission for landscaping shall be followed as reasonably practicable. Plantings shall start at the next optimal planting season from the date of permit approval.
4. A 8-10 foot tall berm shall be installed along the SW edge of the development beginning at the entrance on Morris Rd. extending the entire length along Morris Road to the Casper

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property and then along the entire length of the eastern boundary of the Casper property as shown on the site plan. A 12-15 foot tall berm shall be installed along the northwest corner of the applicant's property as shown on the site plan in the area currently existing as a field. A 12-15 foot tall berm shall also be installed along the northeast side of the applicant's property as shown on the plan north of the proposed water quality pond.

5. The berms addressed above shall be installed before the first building permit is issued. Landscaping of the berm shall commence at the next optimal planting season following the approval of the permit.
6. The minimum parking requirements for the request shall be as requested by the applicant.
7. Stormwater measures shall be designed and installed to detain the 2 year 24 hour storm.
8. All required perimeter landscaping and buffering shall be installed prior to the issuance of certificate of occupancy for the first structure or at the first optimal planting season following the issuance of the certificate of occupancy.
9. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Erosion Control etc.) shall be obtained and copies submitted to the Planning Department prior to issuance of the first building permit.
10. Off-site improvements required by NCDOT or any other agency shall be constructed at no cost to Chatham County.
11. The first building permit shall be issued within 24 months from the date of this permit's approval or this permit will automatically expire and become void.