

#35 from
Cindy Perry
under Deed

NORTH CAROLINA
CHATHAM COUNTY

BOOK 616 PAGE 90

PROTECTIVE COVENANTS
The FARRELL'S CREEK SUBDIVISION
PLAT CABINET 93 SLIDE 146
CHATHAM COUNTY REGISTRY

No outbuilding shall be located on any lot to be closer than 55 feet to any boundary line. Violations of these building location restrictions which are not in excess of ten percent of the minimum requirement shall be deemed minor violations and such minor violations may be waived in writing by the Declarant.

In the event a lot owner builds a dwelling on two or more lots, the multiple lots shall be considered as one for the purposes of setback requirements.

ARTICLE V - NOXIOUS OR OFFENSIVE ACTIVITY

No noxious, offensive or environmentally unsound activity, condition or trade shall be carried on or permitted upon any lots described in Article I hereof, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. There shall not be maintained any plants or animals, or device or thing of any sort whose normal activity of existence is in any way noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of other property in the neighborhood by the owners thereof, except as otherwise specifically permitted herein. Riding of motorcycles, go-carts, or any other high-powered vehicles shall not be permitted across the property unless such vehicles are highly mufflerized and are not operated in such a manner so as to be a nuisance to the neighborhood. No trade materials or inventories may be stored upon the lots unless said materials are kept in an allowed outbuilding (excepting nursery stock), and no inoperable automobiles may be stored or regularly parked on the lots. No sign or billboard shall be placed, erected or maintained on any lot, excepting "For Sale" signs of not more than ten (10) square feet in area.

All dish antennas must be placed to the rear of the dwelling. No target practicing with firearms or hunting will be allowed within the subdivision. Boats and recreational vehicles must be stored to the rear of the home or within an allowed outbuilding. No high intensity directional yard lights should be allowed to shine directly into adjoining lots and any aerial lights must be placed at least fifty feet from any boundary line. Decorative lamp post of low intensity lighting not exceeding eight feet high will be allowed at the entrances to driveways.

ARTICLE VI - USES

All lots shall be used only for single family residential purposes or such other permitted uses as is specifically permitted by Article VI hereinbelow. No lot shall be used for business, manufacturing or commercial purposes, except as specifically permitted hereinbelow. Except as specifically permitted herein, no dwelling or outbuilding may be used as a church, fraternity house, rooming house, boarding house, motel, office or retail space for lease, doctors office or any medical related business. A professional office including but not limited to the business of law, real estate, accounting, computer related, consulting or counseling services or other similar in-house businesses are allowed, provided that at least one resident family member is a partner or principal owner of the business. Agricultural related businesses as permitted in Article VI herein below will be allowed; provided however, that veterinarian office, dog kennels, swine operations, poultry houses, zoos, pet grooming businesses, landscaping companies, wholesale or retail plant nurseries, will not be allowed.

NORTH CAROLINA
CHATHAM COUNTY

BOOK 645 PAGE 270

PROTECTIVE COVENANTS
The WENDY HILL SUBDIVISION
PLAT CABINET 94 SLIDE 245, 246
CHATHAM COUNTY REGISTRY

complete the activity. No building shall be located on any lot to be nearer to the edge of any subdivision road right of way or state road right of way than 100 feet. No dwelling may be located on any lot to be closer than 75 feet to any boundary line. No outbuilding shall be located on any lot to be closer than 55 feet to any boundary line. Violations of these building location restrictions which are not in excess of ten percent of the minimum requirement shall be deemed minor violations and such minor violations may be waived in writing by the Declarant.

In the event a lot owner builds a dwelling on two or more lots, the multiple lots shall be considered as one for the purposes of setback requirements.

ARTICLE V - NOXIOUS OR OFFENSIVE ACTIVITY

No noxious, offensive or environmentally unsound activity, condition or trade shall be carried on or permitted upon any lots described in Article I hereof, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. There shall not be maintained any plants or animals, or device or thing of any sort whose normal activity of existence is in any way noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of other property in the neighborhood by the owners thereof, except as otherwise specifically permitted herein. Riding of motorcycles, go-carts, or any other high-powered vehicles shall not be permitted across the property unless such vehicles are highly mufflerized and are not operated in such a manner so as to be a nuisance to the neighborhood. No trade materials or inventories may be stored upon the lots unless said materials are kept in an allowed outbuilding (excepting nursery stock), and no inoperable automobiles may be stored or regularly parked on the lots. No sign or billboard shall be placed, erected or maintained on any lot, excepting "For Sale" signs of not more than ten (10) square feet in area.

All dish antennas must be placed to the rear of the dwelling. No target practicing with firearms or hunting will be allowed within the subdivision. Boats and recreational vehicles must be stored to the rear of the home or within an allowed outbuilding. No high intensity directional yard lights should be allowed to shine directly into adjoining lots and any aerial lights must be placed at least fifty feet from any boundary line. Decorative lamp post of low intensity lighting not exceeding eight feet high will be allowed at the entrances to driveways.

ARTICLE VI - USES

All lots shall be used only for single family residential purposes or such other permitted uses as specifically permitted by Article VI hereinbelow. No lot shall be used for business, manufacturing or commercial purposes, except as specifically permitted hereinbelow. Except as specifically permitted herein, no dwelling or outbuilding may be used as a church, fraternity house, rooming house, boarding house, motel, office or retail space for lease, doctors office or any medical related business. A professional office including but not limited to the business of law, real estate, accounting, computer related services or other similar in-house businesses are allowed, provided that at least one resident family member is a partner or principal owner of the business. Agricultural related businesses as permitted in Article VI herein below will be allowed; provided however, that veterinarian office, dog kennels, swine operations, poultry

or permitted upon any Lots, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No plants or animals, or device or thing of any sort whose normal activity of existence is in any way noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of other property in the neighborhood shall be permitted. Riding of motorcycles, go-carts, or any other similar vehicles shall not be permitted across the Property. Four wheel all terrain vehicles are not permitted to be operated on the Property. No trade materials or inventories may be stored upon the Lots unless said materials are kept in an allowed building or structure, and no inoperable automobiles may be stored or regularly parked on the Lots unless completely enclosed in an allowed building. No sign or billboard shall be placed, erected or maintained on any Lot, excepting "For Sale" signs of not more than five (5) square feet in area.

No hunting or discharge of weapons is allowed on any Lot or other land which is a part of the Property. No target practicing with bows and arrows or firearms is allowed on any Lot or other land which is a part of the Property. Boats and recreational vehicles must be stored inside an allowed outbuilding or otherwise to the rear of the home so as not to be visible from any street or adjoining Lot. No yard lights shall be allowed to shine directly into adjoining Lots and any such lights must be placed at least fifty feet from any boundary line. Decorative lamp posts of low intensity lighting not exceeding eight (8) feet will be allowed at the entrances to the driveways.

ARTICLE VI - USES

All lots shall be used only for single family residential purposes or such other permitted uses as is specifically permitted by this Article VI. No Lot shall be used for business, manufacturing or commercial purposes, except as specifically permitted herein. Except as specifically permitted herein, no dwelling or outbuilding may be used as a church, fraternity house, rooming house, boarding house, motel, office or retail space for lease, doctors office or any medical related business. A professional office, including but not limited to, the business of law, real estate, accounting, computer related services or other similar in-house businesses are allowed, provided that at least one resident family member is a partner or principal owner of the business, and further provided that said activity shall not cause excessive traffic within the subdivision. Agricultural related businesses, as permitted in Article VIII below, are allowed; provided, however, that veterinarian offices, dog kennels, swine operations, poultry houses, zoos, pet grooming businesses, landscaping companies, wholesale or retail plant nurseries, are not be allowed.

ARTICLE VII - OTHER PERMITTED USES

The owner of a Lot may use said Lot for one or more of the following purposes:

- a. To cultivate and harvest crops as provided by Article VIII below.
- b. To keep, maintain and breed horses, cows, sheep and fowl as provided by Articles IX, X and XI below.
- c. To carry on any business upon a Lot provided: (1) said Lot is also used for residential purposes by the owners of said Lot; (2) only immediate family members and one non-family member is involved or employed by said business; (3) said business is not illegal; (4) said business shall not create constant or frequent daily traffic resulting from customer sales or transport of inventory or trade materials; (5) no signs are located upon the Lot regarding the business; (6) said business is located and maintained solely within the residential dwelling of the owner or an allowed outbuilding, excepting that a business involving allowed agricultural pursuits will be permitted outside of the home or outbuilding; (7) no activity involving the business creates noise, smoke, odor, or unsightly condition or other noxious condition offensive to any other

Response to Goodwin Application for Zoning District Conditional Use District / Conditional Use Permit

“Enjoy Country Living Close to Town”. “Farrell’s Creek country theme will be easily visualized as you enter the community with its attractive entrance pastures and covered wooden bridge”. “Privacy Privacy Privacy”. Those who call Farrell’s Creek their home can select from beautiful 3 acre wooden homesites or lush open hillside pastures with panoramic views”.

The above captions describe Farrell’s Creek Subdivision, and that’s why we are all here before you today. *(Turn and acknowledge homeowners.)*

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.

The subject property is not an eligible conditional use in this location. Hence, their request for rezoning. This property is residential and should remain so.

The applicant states

“and is approximately in the middle of this wooded tract of land”. Photo #1 seems to indicate that this area is mostly clear, and that it occupies most of the tract.

This project is not consistent with the policies and goals of the Land Development Plan. The location of the project does not take into account the preservation of rural character and does not fit in with the surrounding residential rural setting. Nestled within a residential rural area is not an appropriate location for business zoning as commercial development is encouraged at existing cross-roads or intersections.

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

There are already half a dozen boat storage yards in the immediate area of Jordan Lake. This proposed use is not essential and it is certainly not desirable to the Farrell’s Creek Homeowners (exception of 1 family)–Certainly not needed for the boaters at Jordan Lake.

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.

Clearly a boat storage yard and a B1 business use in the middle of a residential rural area are not within the integrity or character of the area.

The applicant indicates that he

“will make use of the large mature trees” – Many of these trees are not on the requesters’ property; they propose using the neighbors’ trees as buffer. Large tin buildings do not fit into a residential area, even if they are to be painted green.

As to the Farrell family land being lost to the Jordan Lake project, Mr. Goodwin’s grandfather farmed on the land. The small corner purchased was bottom land and most was unsuitable for farming. After the death of his grandparents, the family sold this land to a developer knowing that it was to be developed into residential lots.

The applicants argue that this will maintain the “rural attractiveness” of this tract. This is simply untrue; any 4 acre tract covered with tin buildings, boats, campers and recreational vehicles does not retain rural attractiveness.

We believe the impact of this proposal to property values in the surrounding area is detrimental to the welfare of the community. The estimated increase in annual property taxes of \$165.00 hardly compares to the potential loss of any future increases in property values of surrounding residential properties (i.e. Farrell’s Creek, Chapel View Farms, etc.) which historically have been enjoyed.

In addition, the pollution potential is a safety issue of not only the immediate community but also on the safety of the already impaired Jordan Lake. The contamination of the ground and water from leakage of hydrocarbons such as oil, gasoline, transmission oil etc. are a hazard. Boat yards often involve the repair of boat engines, painting and similar activities, all of which can lead to pollution.

Finding 4: The requested permit is consistent with the objectives of the Land Development Plan.

This is not a home-based business; instead it’s a commercial enterprise where the applicant mentions the cluster of small family-based business – nuisance conditions – and so on.

None of the activities associated with this business will be conducted in the applicants' residence except perhaps paper work. All activities and traffic associated with this project will be directed away from the applicants' home and toward the neighbors.

The applicants argue that this is the type of family business that the Land Development Plan encourages; yet, bullet 3 on page 32 states that the Plan should guard against "nuisance conditions". With its traffic coming in-and-out 24 hrs/day seven days/week the applicants clearly consider this a nuisance, which is why the applicants have designed the project so that the traffic is isolated from their home.

On page 36, the Land Development Plan states that three types of centers should be dedicated for commercial development:

- 1 Economic Development Centers
- 2 Neighborhood Activity Centers
- 3 Cross-Road Commercial Centers

This project clearly does not meet these criteria.

Applicant references five similar storage facilities in the area:

- 1) Crossroads Marina – This facility is located adjacent to the marina and lake and is clearly appropriate.
- 2) John Blair's on Highway 64 – This is located on a major highway.
- 3) Gary Wilkie's Jordan Lake Boat Storage – This is located back off John Horton Road well away from any residential property other than a home owned by Mr. Wilkie.
- 4) American Self Storage – This is located on a major intersection.
- 5) George Farrell's – This is located on an intersection with a convenience store and a self storage facility.

Four of these facilities are located in commercial settings. The exception, Gary Wilkie's was located well away from all residences except his own.

John Blair project currently before the Commission for an additional facility with 160 storage units.

Finding 5: Requires that adequate utilities, access roads, storm drainage, recreation, open space, and other necessary facilities have been or are being provided consistent with the County's plans, policies and regulations.

Traffic will be allowed to come out 24 hrs/day seven days a week. Also the plat is designed so that the traffic does not go by the Goodwin's house.

Traffic will be re-directed off Highway 64 onto Martha's Chapel Road. Applicants have not proved that the traffic generated by the proposed use is within the capabilities of the road serving the property. Martha's Chapel Road is a secondary road. It is not an asphalt-paved road and was not originally designed to handle heavy traffic. The road is currently in bad condition and rated below average. An estimate from the NC DOT to pave Martha's Chapel Road (2.8 miles) indicated that it would cost roughly \$275K.

"There will be no sign at the driveway, as this is not the property of applicant." As the property is owned by the applicant's uncle, this should be modified to read, "There will be no sign associated with this business."

"Entry to the facility is along a 40' easement serving the properties of applicants, off Martha's Chapel Road." This proposal not only doesn't comply with the Land Development Plan, it proposes to rezone a residential property as business to be accessed by adjoining property currently zoned residential. How does a single property serve as both RA-40 and qualify for commercial use?

CONCLUSION

We strongly oppose this proposal and believe it is not consistent with the comprehensive plans of Chatham County, and therefore should be denied.

We respectfully ask that the hearing be held open to allow property owners additional time to review and respond to the proposal. There are an overwhelming number of proposals citizens have to review, being summer vacation time when lots of people are away, a two-week lead time for a thorough review of this proposal doesn't provide time to obtain an official qualified appraiser, etc. After all, this proposal affects the value of our major investment, the college education of our children, and our future retirement plans. We bought our homes for their rural environment to live in today and then it's value for the future.

Additional discrepancies and areas of concern:

- 1 There is a discrepancy in CUD/CUP map prepared by applicant and submitted to the Planning Department and the actual location of road. See picture enclosed in application. Clearly not in the same location. We request that Planning Board review the right of way and easement agreement before making any recommendation on this commercial development.
- 2 We request that Planning Board review the Road Maintenance Agreement recorded in Book 611, Pg 227, Chatham County Registry.
- 3 We request that Developer provide a Traffic Impact Analysis (TIA) and a Curvy Speed Study—ASV and pay for an independent peer review of both studies before review of this proposal is completed.
- 4 We also request that developer provide an Economic Study Analysis—demonstrating that there is a clear need for such a business in this location.

Date: July 17, 2006

Re: Request by Jeff Goodwin for a B-1 Conditional Use District with a Conditional Use Permit for Boat, Camper and Recreational Vehicle Storage to be reviewed within category of self-storage facility, /Mini-warehouse storage facility with related retail and services (i.e. Moving truck rental) consisting of 4 acres, located off SR-1752, Martha's Chapel Road, New Hope Township.

My name is Joe LaSala. I live at 274 Farrell's Creek Road in the Farrell's Creek subdivision. Our subdivision directly borders the proposed Boat, Camper and Recreational storage facility, and thus, I and my family are clearly "interested" parties to this proposal.

It is come to our attention that Chairman Morgan, as an owner of residential property on Martha's Chapel that is in "close proximity" [e.g. less than ¼ mile] from this proposed storage facility. Thus, like our family, you have a direct financial interest in property that may be, quote, "affected thereby in some real, substantial, and concrete way different than that shared by members of the general public at large." As such, this makes you also an "interested party" to a conditional use permit request, as spelled out in the county's officially approved "Conditional Use Hearings Rules of Procedure."

Thus, we would respectfully request that you recuse yourself from any further participation in the deliberations on this rezoning and conditional use request.

In addition to what may or may not technically be a direct financial conflict of interest, we believe that there is clearly an appearance of a conflict of interest on your part, given not only the proximity of your own property, but the adjacent location of the property of a close relative. Your son, Anthony Morgan, lives with his family at 155 Farrell's Creek Road in the same Farrell's Creek subdivision that we live in. On July 14, 2006, the members of the Farrell's Creek Homeowners Association voted 10-1 to oppose this proposed rezoning and conditional use request. Anthony Morgan cast the lone dissenting vote. During that meeting he called you on his cell phone twice to obtain technical advice about the process. [REDACTED]

[REDACTED] I may be wrong about this, and you should certainly correct me if that is so, but I understand that you and Anthony Morgan are in one or more forms of a business partnership or relationship. I also understand that Anthony, you and the Goodwin family are close friends. Regardless of these latter two concerns, your son is clearly an interested party and has stated his firm views concerning this proposal in public. Under those circumstances, it would be difficult for any father to listen to this request objectively.

I think you would agree that it is critical to the integrity of the planning review process that it be seen by residents of the county as both promoting the public or common good and ensuring that all residents are treated fairly and equally. This cannot occur when there is an appearance of a conflict of interest or lack of objectivity on the part of one of the commissioners, particularly the chairman, who will make the decision on a proposed development request.