

PLANNING & ZONING REVIEW NOTES

VII. B

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**SUBJECT:** A request by Carter Crawford for **Paul Austin** for a conditional use light industrial permit for a multi-use building for uses including festivals, concerts, horse auctions, plays, and benefit sales on approximately 17.37 acres of Parcel No. 73961 consisting of 77.62 acres located at 245 Buckhorn Rd. (SR1921), Cape Fear Township.

**ATTACHMENTS:** *The following was submitted at the May 1, 2007 Planning Board meeting:*

1. Application packet

*The following can be viewed on the Planning Department's webpage at [www.co.chatham.nc.us](http://www.co.chatham.nc.us) under Planning, Rezoning & Subdivision Cases, 2007:*

2. Arcview map
3. Public hearing sign up sheet
4. Letter from the Southeast Chatham Citizen's Advisory Council dated May 21, 2007

**INTRODUCTION & BACKGROUND:**

A quasi-judicial public hearing was held on May 21, 2007. Twelve (12) people signed up to speak on the issue. Nine (9) people spoke against the request. The Planning Board did not receive notes on the Planning Department's recommendation at last month's meeting due to time constraints on other issues. The conditional use permit cannot be approved unless the zoning district change is approved.

**DISCUSSION & ANALYSIS:**

A recommendation on this request is based on the five findings as set out in the ordinance. They are:

***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.

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

***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.

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

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

It is the planning staff opinion that **Finding #1 could be made** if the zoning district is changed to conditional use light industrial district. The uses under the light industrial list of permitted uses and as outlined on the site plan that are being requested are:

Assembly halls and similar structures; blacksmith or horseshoeing shops, exhibition shows, trade shows, flea markets, banquets, conventions, religious events, arts and crafts shows, stage shows, athletic events, and other similar events; clubs and other places of entertainment operated as commercial enterprises; flea markets and rummage sales conducted either within a building or outdoors provided that no principle building or sales areas shall be located in the required yard; grounds and facilities for open air games and sports; open-air sales or displays and sales or displays from temporary building or structure; communications towers.

It is the planning staff opinion that **Finding #2 is arguable but may be made**. The multi-use building the applicant is proposing is to enhance the use of Mr. Austin's property by allowing varying recreation and attractions to the property. There currently are other properties in the rural areas of Chatham County that invite people for concerts, festivals, etc. on a regular basis. They are Shikori Hills located in the Silk Hope area, the Sports Arena located in Goldston, the Bynum General Store located north of Pittsboro in Bynum, and Reno Sharpe Store located in the Bear Creek area. This could be an enhancement for the Moncure and Corinth area. The difference between these areas and the property proposed in this application is the other properties are located within an unzoned portion of Chatham County or were there prior to zoning. The county planning ordinances do not have protection over the appearance or hours of operation in these instances. The request could have specific conditions placed on the permit to govern such concerns and create a desirable facility.

It is the planning staff opinion that **Finding #3 is not supported but may be made with conditions**. The application states there will be parking for up to 170 vehicles located at the multi-use building. When this number of vehicles is added to 80 potential vehicles from the campground, if approved, the number of trips could easily be over 500. Nothing in this application has provided information from NCDOT that addresses the potential traffic load allowable on Buckhorn Rd. During a "festival, concert, or charity" event, traffic generated may not conform to the rural character associated with the area and as described in the Land Conservation and Development Plan.

The visual impact and screening would be minimal. This building will be located within the property on the farthest eastern section of the parcel. The property has a natural down slope from Buckhorn Rd. to the other end of the property. Neither the building nor the parking area should be visible from the roadway or an adjacent/adjoining landowner.

The applicant states lighting at the building and in the parking area will only be used during activity times. Otherwise no lighting will be used.

The applicant stated at the public hearing the multi-use building where the concerts, festivals, and varying events will be held, is to be approximately 12,500 square feet and partially enclosed and partially heated. Noise generated from a partially enclosed structure could be an issue. Details of the building's construction or the materials to be used to ensure noise is not an issue was not provided.

It is the planning staff opinion that **Finding #4 has not been met** as addressed in the request for a rezoning conditional use district and it is the staff opinion that it is not consistent with the specific recommendations of the Plan. Please refer to the notes for the request for rezoning to Conditional Use Light Industrial from Residential Agricultural for clarification.

It is the planning staff opinion that **Finding #5 has not been supported**. The information provided in the application from the Chatham County Environmental Health Department does not reflect the intended uses this application is requesting. The Improvements Permits, the Construction Authorization Permits, and the Sewage Disposal Permits were issued in 2002 for two (2) residential, 3 bedroom septic systems. Those systems have been used for a mobile home and Mr. Austin's home. Per Mr. Thomas Boyce, neither the applicant nor his representative have applied to have these systems uses changed for a conditional use light industrial commercial use or to propose abandonment of one or both of these systems to use for any non-residential purposes. The soils report, which can be viewed on the Planning Department website, detailed information from Hal House and Agri-Waste Technology, Inc., that state there are many factors that create an unsuitable area for wastewater systems; the topography of the land, the varying soil types, and drainage features. No one particular system was recommended due to these factors. The property will continue to be served by county water. A plan has not been provided for stormwater management of the site.

No further studies are required at this time from the Office of State Archaeology or the Natural Heritage Program.

It is the recommendation of the planning staff that this request be denied for failure to meet the requirements of Finding #3, 4, and 5 for reasons stated above.

**RECOMMENDATION:**

The Planning Board has up to three (3) meetings to make a recommendation to the Board of Commissioners on this request. It is the recommendation of the Planning staff that this application request has not met the five findings required and should not be approved. If the Planning Board's recommendation is to be a favorable one, it is requested the Planning Board review any additional conditions imposed upon the request at this time:

1. There shall be allowed one (1) sign, no larger than 32 square feet at the entrance to the property as described in the application.

2. The multi-use building shall be designed in such a way that any activity that generates noise above those customary in a residential neighborhood is maintained at minimal noise levels. The areas for concerts, or the like, shall be located within the enclosed portion of the building. Compliance with the Chatham County Noise Ordinance shall be met.
3. Recommendations from the Appearance Commission shall be followed. A landscaping/screening buffer between the RA-40 zoning and the Conditional Use Light Industrial zoning is not recommended at this time. However, the fifty foot (50') buffer around the perimeter of said area shall be maintained in the event the property is ever subdivided, at which time screening and landscaping shall be reviewed and installed accordingly by the applicant/owner. The Appearance Commission with the Planning Department may review the landscaping and screening after one year of the initial planting to verify appropriate measures have been taken as requested. Should there be any changes in the landscaping for effectiveness of screening and environmental protections, they shall be given to the applicant at that time and the applicant will be given ample opportunity to take the corrective measures.
4. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Erosion & Sedimentation Control, wastewater plans and permits, etc.) shall be obtained and copies submitted to the Planning Department prior to issuance of the first building permit.
5. Off-site improvements required by NCDOT or any other agency shall be constructed at no cost to Chatham County.
6. Interior road way travel areas shall be designed to allow for "turn-around" for vehicles with trailers and/or campers and emergency vehicles. These areas shall be shown on a detailed site plan prior to beginning of construction. All parking for the multi-use building shall be designed and installed to meet the parking requirements from the Chatham County Zoning Ordinance.
7. There shall be two (2) full movement driveway entrances/exits to allow anyone who may miss the first entrance to enter into a second entrance. NCDOT shall issue permits for both driveways.
8. The first building permit shall be issued within 24 months from the date of this permit's approval, expiration of the appeal period or any court decision, whichever is later, or this permit will automatically expire and become void.
9. Any and all lighting shall comply with the "draft" lighting guidelines applicable at the time of approval and installed at the locations as listed on the submitted site plan. Lighting for the multi-use building and parking area shall be used only during event times as stated by the applicant.

10. There is to remain and be maintained a 50 foot vegetated, screening buffer around the perimeter of the conditional use light industrial area consisting of approximately 17.37 acres.
11. Any stormwater measures that may be required shall conform to the 2 year, 24 hour storm event and a plan submitted to the Planning Department prior to its construction and prior to beginning any further grading or landscaping on the property.
12. The applicant shall examine ways to utilize the use of reuse water for this property and a plan submitted to the Planning Department prior to beginning of construction.
13. There shall not be any trash accumulation on the property. Trash removal shall be the responsibility of the campground owner and dumpster locations shall be fenced and/or screened from public view and maintained in such a manner as not to allow animals to scavenge through it.
14. Watershed Management - An “as built” impervious surface calculation for all structures, gravel, concrete, and asphalt shall be provided to the Planning Department prior to the issuance of a certificate of occupancy. Should the project be constructed in phases, each phase shall provide the information in a continuing fashion.
15. Silt Control – The applicant and/or landowner shall take appropriate measures to prevent and remove the deposit of wet or dry silt on adjacent paved roadways.
16. Appeal - The County shall be under no obligation to defend any action, cause of action, claim, or appeal involving the decision taken herein. In the event a response is authorized by the County concerning this resolution, or any action to enforce the provisions hereof, the applicant, its successors or assigns shall indemnify and hold the County harmless from all loss, cost or expense, including reasonable attorneys fees, incurred in connection with the defense of or response to any and all known or unknown actions, causes of action, claims, demands, damages, costs, loss, expenses, compensation, and all consequential damages on account of or resulting from this decision. Nothing in this paragraph shall require the applicant to indemnify and hold the County harmless from any losses or costs associated with defense of the County’s actions or procedures in considering and acting upon this application.
17. Fees - Applicant and/or landowner shall pay to the County all required fees and charges attributable to the development of its project in a timely manner, including, but not limited to, utility, subdivision, zoning, and building inspection, established from time to time.

18. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued Determination with the plans and conditions listed above.
19. Non-Severability - If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
20. Non-Waiver - Nothing contained herein shall be deemed to waive any discretion on the part of the County as to further development of the applicant's property and this permit shall not give the applicant any vested right to develop its property in any other manner than as set forth herein.