



**CHATHAM COUNTY
BOARD OF COMMISSIONERS
AGENDA ABSTRACT**

ITEM NUMBER:
MEETING DATE:
8-20-07

PART A

Subject: A request by Carter Crawford for **Paul Austin** for a conditional use permit for private & public recreation camps and grounds on approximately 20 acres of Parcel No. 73961 consisting of 77.62 acres, located within an RA-40 (residential/agricultural) zoning district, at 245 Buckhorn Rd. (SR1921), Cape Fear Township.

Action Requested: See Recommendations

Attachments: *The following may be viewed on the Planning Department website at www.chathamnc.org under Planning, Rezoning & Subdivision Cases, 2007:*

1. Application packet
2. Arcview map
3. Public hearing sign up sheet
4. Letter dated May 21, 2007 from Loyce Hurley, President of CCEC
5. Email from Hal House PH.D, of Integrated Water Strategies, dated May 19, 2007
6. Copy of NC Horse New Message Board printed May 21, 2007, providing photos and testimony from people using the property of Mr. Austin

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: Paul Austin - CUP

Introduction / Background / Previous Board Actions:

A quasi-judicial public hearing was held on May 21, 2007. Twelve (12) people signed up to speak on the campground issue. Ten (10) people spoke against the request. Minutes from the public hearing may be viewed on the county webpage at www.chathamnc.org under County Manager's Office website.

The Planning Board did not receive notes on the Planning Department's recommendation at the June 5th meeting due to time constraints on other issues and submitted said notes for the July 10th Planning Board meeting. Due to time constraints on their agenda, the Planning Board removed this item from the July 10, 2007 agenda and rescheduled for the July 31, 2007 special meeting. ***The Planning Board voted 10 for and 1 against the recommendation for denial.***

Mr. Austin has held several non-profit charity events on his property over the past few years. There has been activity associated with some of these events that were a violation of the Zoning Ordinance. One of those issues is the creation, use, and maintaining of a private recreation campground. The Chatham County Planning Department issued a notice of violation for this use September 7, 2006 and advised the applicant that a conditional use permit must be applied for and approved before such activity could continue. Mr. Austin is applying for such an approval in this request.

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:

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 opinion of the planning staff **Finding #1 may be made**. This property is located within an RA40 (Residential/Agricultural) zoning district. Public and private recreation camps and grounds is listed as a permitted use under Section 10.3.B Conditional Uses where such use must receive an approved conditional use permit by the Board of Commissioners. The property consists of approximately 70 acres where 20 acres would be developed for the use of the campground.

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It is the opinion of the planning staff **Finding #2 is arguable but may be made.** Though a Plan Map has not been adopted and the goals and objectives are subjective in nature, the Land Conservation and Development Plan, here in after referred to as “the Plan”, lists several goals and objectives to reflect balanced growth. One of those objectives can be seen on page 1 of the Plan. One of the specific issues on which the Plan focuses is to develop an integrated approach to protecting and promoting high-quality open space, recreation, historic and tourism locations. On page 10 of the Plan, balanced growth looks for ways to ensure growth consists of a mix of different types of development and development is guided to appropriate locations and is designed appropriately for its setting. It is planning staff opinion this type of activity is better located off of a main thoroughfare (highway) due to the slower traffic patterns that will be needed with the hauling of campers, recreational vehicles, and horse trailers. The main highway, NC Hwy 42, where Buckhorn Road intersects, has a speed limit of 35 mph so traffic turning onto Buckhorn Road or entering back onto NC Hwy 42 should not be traveling at a high rate of speed to cause possible traffic hazards. The property is located on a dead end road where traffic would be minimal as compared to a major roadway. Local stores and other commercial properties could possibly see an increase in their sales with the added attraction of tourism which in turns creates tax revenues for Chatham County.

***It is the opinion of the Planning Board Finding #2 has not been met** due to “un-neighborly” conduct testified to at the public hearing and by the group present at the Planning Board meeting in opposition of the request. Planning Board members stated there is another campground within a couple of miles from this property for 108 units and the Board of Commissioners approved another campground off Moncure School Rd. for the House property within the last couple of months. In their opinion the public convenience and welfare has not been supported.

It is the opinion of the planning staff **Finding #3 is not supported but may be made with conditions.** Emergency services will continue serve this property. It is expected that traffic generated for this approval could be greater at times when festivals, charity events, and recreational camping during peak seasons are scheduled. The applicant plans on “phasing” the camping areas by starting with 20 spaces. Each phase is to be completed within 24 months of beginning said phase after all proper permits have been obtained.

It is our opinion there is no requirement for turning lanes or other alterations needed to Buckhorn Road. Pursuant to the site plans submitted, lighting is very minimal and should not create a nuisance for adjoining or adjacent properties. Any vegetation that has been removed shall be replanted by the Appearance Commission recommendations.

Noise should be minimal during non-event times and is enforced by the Chatham County Sheriff's Office. The Chatham County Noise Ordinance now requires noise permits to be issued prior to holding any type of “event” that could possibly generate above normal noise levels such as with concerts, rodeos, or any other type of activity

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the applicant has requested. However, approximately 32 people stood in opposition of this request giving sworn testimony about the noise, vehicles pulling horse trailers and campers turning around on their property, and the behavior of some people using the property.

Complaints of trash being left in the woods, erosion and runoff problems with clearing and grading that has been done already, riders crossing private property to access the trails and having to have them removed, creek and stream buffer areas being destroyed, and an array of other complaints were given and those minutes can be obtained from the County Manager's Office as well as be seen in the written comments provided on the Planning webpage. By the applicant's own testimony in the application, the majority of the horseback riding does not occur on his property but instead on game lands owned by Carolina Power & Light Co. The reason for mentioning this activity is due to the applicant requesting the campground to enhance the area making it more appealing to prospective users. The applicant's representative stated during the public hearing "the horses ford stream crossings". Photos and testimony from people using the property of Mr. Austin and the game lands property was received on May 21, 2007 just before the public hearing from a website under NC Horse News Message Board, which shows Mr. Austin and various other people riding across, in, and through creeks, streams, and river areas. A copy was provided at the public hearing and can also be viewed on the website. The applicant has proposed a one hundred foot (100') buffer on each side of any creek or stream and pond located on his property.

****It is the opinion of the Planning Board finding #3 has not been made for the following reasons.*** Members stated trespass, driveway concerns for proper egress and ingress for vehicles with horse trailers and/or recreational vehicles and campers, and wastewater information was not adequately supplied. Mr. Vaughn with Agri-Waste was present to address the concerns the Board had regarding the soils report and the statements in the report on unsuitable soils and topography. He stated there was more site preparation and review that needed to be done before they could recommend a specific type of system but felt an appropriate system would be permitted and sited on the property as the process moved forward. It was stated spray irrigation is the anticipated method of discharge for the system. Planning Board members also stated a concern regarding the length of time given to the definition of "temporary" occupancy. Two years was felt to be too long and should be much shorter. A suggestion of 6 months or less was made by Planning Staff could be done. The reason for the two-year limit was in keeping uniformity with the conditions of the other campgrounds that have been approved over the last 3 years. There are also concerns of safety. The game lands are public lands where hunting is allowed. Most months out of a year have some sort of hunting permitted.

It is the opinion of the planning staff **Finding #4 may be made.** As stated in Finding #2, the Land Conservation and Development Plan encourages diverse development with regards to balanced growth, ways to enhance tourism, and economic growth. This particular type of request is one that has not been permitted or created in Chatham County until now and could make a beneficial contribution to Chatham County's tax base and revenue. See also Finding #2 for further clarification as already stated.

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It is the opinion of the planning staff **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 the mobile home and Mr. Austin's home. Per Mr. Thomas Boyce, neither the applicant nor his representative have applied to have these system's uses changed for a campground use or to propose abandonment of one or both of the systems to use them for non-residential purposes. The soils report, which can be viewed on the Planning Department website, has 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 nor has detention ponds been recognized.

****It is the opinion of the Planning Board finding #5 has not been met for the following reasons.*** The same concerns were stated here as were for finding #3 above regarding the uncertainty of wastewater systems and proper access. There were concerns as well on erosion and runoff of the property into the creeks and streams of which there are two located on this property. These creeks flow onto game lands where the majority of horseback riding is said to occur. The applicant stated there were precautions to be taken through other required permitting if the request were to be approved.

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 and the Planning Board this request be denied due to Findings 2, 3 and 5 not being supported as stated above.

Recommendation:

It is the recommendation of the Planning staff and the Planning Board (vote 10 - 1) that this application has not met the five findings required and should not be approved. If the Board of Commissioners thinks that the five findings may be made then there should be support for the findings described. The Planning Board chose not to review the list of conditions stated below. If the Board of Commissioner's decision is to be a favorable one, it is requesting the Board to review the additional conditions imposed upon the request at this time:

1. A survey map shall be provided to the Planning Department clearly marking the 20 acres to be used for the campground area and well as a final site plan marking campground sites, wastewater system locations, stormwater detention areas if required, and any other use associated with the campground.

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Recommendation – con't

2. There shall be allowed one (1) sign, no larger than 32 square feet at the entrance to the property as described in the application.
3. Recommendations from the Appearance Commission shall be followed. Any additional plantings shall be done at the next optimal planting season following the approval date and shall be maintained to thrive and provide the appropriate screening as required. If vegetation is not adequate for screening the property from the public roadway or adjacent properties, fencing may also be required. 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 etc.) shall be obtained and copies submitted to the Planning Department prior to issuance of the first building permit or any land disturbing activity.
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 arounds 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.
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. If NCDOT does not grant a second driveway permit, an area on Mr. Austin's property, just past the driveway, shall be provided to install a turn around area big enough in diameter for such elongated vehicles to maneuver. This area shall be either gravel, concrete, or asphalt and shall be marked to direct traffic that may miss the entrance drive. It is not to be used for parking and shall be maintain in good condition.
8. The first building permit shall be issued within 12 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.
10. There is to remain and be maintained a 50 foot vegetated, screening buffer around the perimeter of the campground area.

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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. There shall be no more than 80 units on this property as stated in the application. The spaces may be completed in phases. A building permit shall not be issued for any phase without the required permits from the Chatham County Public Health Department or state approved system permits.
13. Campground use is for temporary use only. "Temporary" is defined in this instance as up to two (2) years per unit. No permanent structures or tents are allowed, only campers, travel trailers, recreational vehicles and motor homes.
14. Units must be spaced a minimum distance of 30 feet apart.
15. There shall not be any trash accumulation on the campground property. Trash removal shall be the responsibility of the campground owner and shall be maintained in such away to secure the area from animals scavenging through the garbage. Fencing and/or screening the dumpster areas shall be made.
16. The property owner shall maintain a log of record on the occupants of the campground. This information is to include, the name of the temporary resident, the tag number of the camper, motor home, travel trailer, or recreational vehicle, and the dates they checked into the campground as well as the dates they checked out. A copy of this log shall be available to the Planning Department and a copy filed in the Planning Department office every twelve months.
17. 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.
18. 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.
19. 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.

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20. 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.

21. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued Determination with the plans and conditions listed above.

22. Non-Severability - If any of the above conditions is held to be invalid, this approval in its entirety shall be void.

23. 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.
