

Application for Conditional Use Permit

**LIR, LLC**  
APPLICANT

**MICH GARDENS AT JORDAN LAKE, INC.**  
LAND OWNER

October 17, 2008

## STATEMENT OF PURPOSE

LIR, LLC, a North Carolina Limited Liability Company (“Applicant”) is applying to Chatham County for approval of a Conditional Use Permit<sup>1</sup> to allow for an eating and drinking establishment and uses and structures ancillary to the same (CUP-B-1). Applicant intends to create a to-go eating establishment to serve Jordan Lake visitors, Highway 64 travelers, nearby residents and contractors working nearby. The Property is located at the southwest corner of U.S. Highway 64 and Beaver Creek Rd. The property is currently used for commercial purposes as the Mich Gardening Center. The intersection has commercial enterprises on three sides and is specially designated for commercial use under the Chatham County Watershed Protection Ordinance. For existing conditions on the property, see **SHEET 1**. For the proposed site plan, see **SHEET 2**.

One of the owners of LIR, LLC is William Copeland, of Apex Nurseries.

The conditional use permit request is made pursuant to Section 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 use plan.

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<sup>1</sup> Applicant does not need to file an application for a conditional use district because the Property at issue is zoned straight B-1 in part and CU-B1 in part. Thus, no zoning district change is necessary.

APPLICATION FOR  
ZONING DISTRICTS  
CONDITIONAL USE DISTRICTS  
CONDITIONAL USE PERMITS

Chatham County Planning Department  
P.O. Box 54  
Pittsboro, NC 27312

Tel: 919/542-8204  
Fax: 919/542-2698  
Email: angela.birchett@ncmail.net

**(1) Applicant Information:**

Name: LIR, LLC  
Address: 2551 Hollands Chapel Rd 27523  
\_\_\_\_\_  
Phone No: (h) \_\_\_\_\_  
(w) 919-422-7862 \_\_\_\_\_  
(m) \_\_\_\_\_  
Email: wrcopeland@bellsouth.net

**(2) Landowner Information (as shown on deed)**

Name: Mich Gardens at Jordan Lake, Inc.  
Address: 86 Beaver Creek Rd. \_\_\_\_\_  
Apex, NC 27502 \_\_\_\_\_  
Phone No: (h) \_\_\_\_\_  
(w) 919-387-0402 \_\_\_\_\_  
(m) \_\_\_\_\_  
Email: \_\_\_\_\_

**(3) Property Identification:**

911 Address: 10544 Highway 64 E.  
S.R. Name: \_\_\_\_\_  
S.R. Number: At Intersection of Hwy 64 E. and  
S.R. 1008  
Township: New Hope  
Acreage: 2.147 ac.  
Flood map #: 3710978200J (7-13-2005)  
Flood Zone: X

PARCEL#: 17707 \_\_\_\_\_  
P.I.N #: 9792-92-6875.000 \_\_\_\_\_  
Deed Book: 924 Page: 981 Yr: 2002  
Plat Book: 95 Page: 263 \_\_\_\_\_  
Current Zoning District: CU-B1 and B-1  
Watershed District: WS IV CA (Exhibit B)

**(4) Requested Zoning District, Conditional Use District, OR Conditional Use Permit:**

Conditional Use Permit for the CU-B1 portion of the property (1.00 acres) to allow for eating and drinking establishment. This portion of the property is already a Conditional Use B-1 district. The balance of the property (1.147 acres) is already zoned B-1 upon which eating and drinking establishments are allowed uses.

**(5) Directions to property:** Highway 64 east from Pittsboro toward Apex. Approximately ten miles to Wilsonville traffic light. Property is on the right.

**(6) Attach the following, if requesting a zoning map amendment:**

List of names and addresses of current adjoining property owners (see Adjacent Landowners form)

Written legal description

Map of the property at a scale of not less than 1 inch equals 200 feet

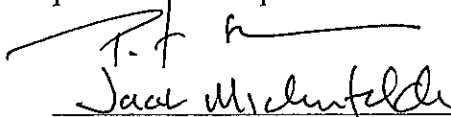
Explanation of request addressing applicable portions of Section 17.3B of the Chatham County Zoning Ordinance

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**(7) Attach Submission Materials Checklist Information (see Submission Materials Checklist form)**

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I hereby certify that I am the owner or authorized agent of said property and that the information provided is complete and the statements given are true to the best of my knowledge.

  
\_\_\_\_\_  
Signature

10/17/08

10-17-08

\_\_\_\_\_  
Date

The owner must sign the following if someone other than the owner is making the application.

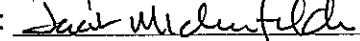
I hereby certify that LIR, LLC or its designee is an authorized agent for said property and is permitted by me to file this application.

Mich Gardens at Jordan Lake, Inc. (Owner)

\_\_\_\_\_  
Date

By:  \_\_\_\_\_

10-17-08

Its:  \_\_\_\_\_

10-17-08

## LEGAL DESCRIPTION OF PROPERTY

Conditional Use District/Permit Property:

BEING all of Parcel 1, containing 1.000 acres, more or less, and Parcel 2, containing 1.147 acres, more or less, as shown on the plat entitled, "Recombination Map for John D. Gage and wife Nancy R. Gage," dated July 7, 1995, prepared by Smith and Smith Surveyors, and recorded in Plat Slide 95-263, Chatham County Registry.

## SCHEDULE OF ADJACENT PROPERTY OWNERS

1. Joel L. Williams  
1306 Walnut Street  
Cary, NC 27511-4733  
Parcel #84524
2. John Peter Michenfelder  
86 Beaver Creek Road  
Apex, NC 27502  
Parcel #62092
3. Vossie Lee Horton  
193 John Horton Road  
Apex, NC 27502  
Parcel #17708
4. Juanita Clegg  
D. Bynum Clegg  
153 Beaver Creek Road  
Apex, NC 27502  
Parcel #17699
5. Liberty Enterprise, Inc.  
c/o Ozzie Hussain  
10525 US Hwy. 64 E  
Apex, NC 27502  
Parcel #62087 and 70153
6. Grizelle McNeill Heirs  
Annie F. Kelley  
c/o Kenneth Aillsbrook  
164 Alston Rd.  
Apex, NC 27523  
Parcel #17709

## DESCRIPTION OF THE PROJECT

Applicant seeks to create a Grill-n-Go™ restaurant consisting of one structure (approx. 1,700 square feet), minimal parking and outstanding landscaping. Given its affiliation with and proximity to Apex Nurseries (one of the owners of Applicant is William Copeland, part owner of Apex Nurseries), the County can be assured that the project will be well-landscaped and buffered in accordance with the attached landscaping plan. See SHEET 4 attached hereto. The Applicant met with the Appearance Commission on October 8, 2008. The Appearance Commission was highly supportive of the project and had no additional recommendations with regard to landscaping, lighting, signage or any other aspect of the design.

### *Location:*

(1) Public Highways. The property adjoins U.S. Highway 64 East and State Road 1008 (Beaver Creek Rd.)

(2) Private Roads. None.

(3) Current Zoning. The current zoning of the easternmost 1.47 acres (approx.) is B-1 (the corner portion). The balance of the Property (the westernmost 1.00 acre) is zoned CU-B1. Applicant seeks no zoning change because the requested use is an allowed use under both the B-1 zoning and the CU-B1 zoning.

(4) Watershed Classification. The watershed classification is WS-IV-CA. Up to twenty-four percent (24%) impervious surface is allowed. It is estimated that approximately 21.7% of the as-built site will be comprised of impervious surface. The Watershed Protection Ordinance also makes special provision to allow eating and drinking establishments on properties within 1000 feet of the intersection of U.S. Highway 64 and Beaver Creek Rd. (S.R. 1008). This project is well within the 1000 allowance.

(5) Major Wildlife Areas. This site is not in or adjacent to any area designated as a natural area according to the "Inventory of the Natural Areas and Wildlife Habitats of Chatham County, North Carolina."

(6) Size in Acres of Site. The overall tract size is approximately 2.147 acres.

(7) Utility or Other Easements. A right of way for U.S. Highway 64 and State Road 1008 serves the site.

(8) Current Use. The property is being used as the Mich Gardens commercial site.

(9) Current Contents of Site. See SHEET 1.



- (10) Other Conditional Use Permits Granted for the Site. The westernmost portion of the property is subject to a conditional use permit to allow the existing garden center. That permit was recently amended simply to allow the westernmost section to be sold along with the easternmost section.

*Description of Use:*

The proposed use of the Property will be for an eating and drinking establishment as well as for ancillary structures and uses.

*Site Plan and Drawing:*

The site plan attached as **SHEET 2** describes the plans for the site in detail.

- (1) Existing Buildings. See **SHEET 1**.
- (2) New Buildings. One new structure is proposed as set forth on the site plan attached as **SHEET 2**.
- (3) Landscape Plan. See Landscape Plan attached as **SHEET 4**.
- (4) Screening/Buffering Plan, Setbacks. See Landscape Plan attached as **SHEET 4**.
- (5) Natural Preserved Areas. See the buffered areas shown on the landscape Plan attached as **SHEET 4**.
- (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 amount of parking and loading available will conform to Section 12 of the Zoning Ordinance. The proposed use requires stacking for 4 vehicles at each lane plus one space for every two employees. Because there is no seating proposed, the Applicant has designed in one space per employee (5 spaces), plus one handicapped parking space.
- (8) Sign Location, Type and Size. The signage regulations set forth in Section 13 of the Zoning Ordinance (as recently revised) would allow for 1,050 square feet of signage (800 s.f. attributable to the 400 feet of frontage on highway 64, plus 250 s.f. for the 250 feet of frontage on S.R. 1008. There will be a roadside sign along Highway 64 and a roadsign sign along S.R. 1008. The anticipated combined square footage of those 2 signs will be

significantly less than allowed. In addition, there may be interior directional signage for safety of traffic flow and information.

- (9) Areas Reserved for Future Development or Improvements. None anticipated.
- (10) Lighting Plan. Section 11A of the Zoning Ordinance will be complied with.
- (11) Percentage of Impervious Surface. The property will be developed to approximately 21.7% of impervious surface, below the 24% allowable limit.
- (12) Topographical Description of Site. A topographical map is provided as part of the site plan attached as **SHEET 3**.
- (13) County Road Map. A county road map identifying the location of the property is provided as **SHEET 6**.
- (14) County Tax Map. A copy of the county tax map of this site is provided as **SHEET 7**.

***Start and Completion Projections:***

It is anticipated that the new building will be operational by the end of calendar year 2010.

***Adjoining Property Owners:***

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

### *Reference to Existing County Plans:*

This proposed use is consistent with the vision contained in the Chatham County Land Conservation and Development Plan (the "Land Use Plan"). Further, approval of the proposed use encourages local, community based economic development. The co-founder of LIR, LLC is a consummate local contributor, who, along with his ancestors, have been in business in this part of the County since 1918.

The first of the two fundamental policies of the Land Conservation and Development Plan (the "Land Use Plan") is to encourage balanced growth by making sure that growth consists of a mix of different kinds of development and by ensuring that development is guided to suitable locations. *Land Use Plan, p. 1.* The Land Use plan designates eight square miles of economic development centers but does not specifically identify locations on a map. The Watershed Protection Ordinance, however, provides guidance that this intersection has long been held out as ideal for allowed commercial uses. The Watershed Protection Ordinance designates the area within 1000 feet of this intersection for business use and specifically identifies eating and drinking establishments as allowed non-residential uses on this Property. With commercial uses occupying three of the four corner parcels, it is certain that this intersection is a "suitable location" within the meaning of the Land Use Plan. Further, the Land Use Plan provides that "economic activity can occur almost anywhere in the County, with the exception of conservation areas, but different activities (or uses) would be appropriate in different locations and might be subject to different performance and design standards." *Land Use Plan, p. 27.*

The proposed use would be guided both to a place where commercial uses co-exist but also to a place where picking up "to-go" meals is a natural fit. Observation of those patronizing the two corner convenience stores for meals is evidence enough that the location is a food sales magnet. The Property is ideally suited for the use proposed.

Encouraging this commercial use where there are existing commercial uses is good planning.

In discussing Economic Development Centers, the Land Use Plan lays out the following principles:

- Economic centers should be situated in planned locations. *Land Use Plan, p. 27.*
- Economic Centers should allow for "continued development within other areas currently zoned for commercial or industrial." *Land Use Plan, p. 27.*
- It encourages community compatible businesses. *Land Use Plan, p. 27.*
- A broad range of economic activities should be permitted. *Land Use Plan, p. 31.*

The Land Use Plan also sets out benchmarks for establishing appropriate economic development centers such as (1) areas especially suited for particular businesses (this eating establishment is located near Jordan Lake and among other businesses); (2) areas tied to transportation infrastructure (this site is located just off U.S. Highway 64); (3) areas minimizing impact of businesses on areas of the county (this use is close to other businesses and has convenient access to people camping, going for picnics and other users of Jordan Lake); (4) commercial development that pays for itself (this use will not impose any financial burden on the County but will create jobs, increase tax revenue and local spending). *Land Use Plan, p. 10.:*

There can be no doubt that this proposal fulfills the specific language of the Land Use Plan and is consistent with and promotes the purposes and intent of the Land Use Plan.

### FINDINGS REQUIRED BY ZONING ORDINANCE

The Chatham County Zoning Ordinance provides, in Section 15.1, that: "In considering an application for a conditional use permit the Board of Commissioners shall give due regard that the purpose and intent of this Ordinance shall be served, public safety and welfare secured and substantial justice done." This application is consistent with all of the purposes of the Ordinance set forth in its preamble.

The 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 subject property would be located within a conditional use district "B-1." Eating and drinking establishments are allowed uses within such a district and also within the B-1 district. *Chatham County Zoning Ordinance, section 10.5.*

(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 or Desirability: The County has expressed its desire to encourage economic development that is locally born and directed to appropriate locations. This proposed use squarely fulfills those twin objectives. The land is essentially set aside for commercial and there are no “drive-through” restaurants from the Pittsboro town limits to the Chatham/Wake County line east of Jordan Lake, a span of approximately 10 miles. The convenience stores at the two other corners command a large amount of food business based on the proximity of both to the Lake, the Town and nearby developments. This kind of contribution to the Chatham economic engine, without commensurate costs of County services is ideal. It is further desirable to allow commercial development where it is already allowed and anticipated rather than directing it to parcels that need to be rezoned for that purpose.

(2) Survey of Similar Uses: The Applicant is aware of no other similar businesses located nearby. A sit down restaurant is approved and in the planning stages for near the intersection of Big Woods Rd. and U.S. Highway 64. Other than that there are no restaurants existing or planned from the bypass east of Pittsboro all the way to the Chatham/Wake County line – a span of more than 10 miles.

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

(4) Tax Considerations: The newly constructed restaurant will add tax value to the property. The current value of the land and improvements is shown on the tax rolls to be approximately \$257,000. It is estimated that the land and restaurant value will be valued at least \$600,000, an increase in tax value without need of any expenditure of resources by the County. 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.

(5) Employment: It is anticipated that 4-5 permanent jobs will be created in addition to the construction jobs that are anticipated.

***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 and welfare of the community.***

(1) Emergency Services: The project is 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: Traffic entering and leaving the site is expected to be well managed by an approved commercial driveway permit. Applicant has met with the DoT representative who has indicated that a commercial driveway permit will issue so long as no driveways on

Highway 64 are requested. The Property is located at a signalized intersection of a controlled access highway. The capacity of the roadway will not be impacted in any significant way by the proposed use.

(3) Visual Impact and Screening: This project will have a minimal impact on neighbors and passers-by. The landscape plan (attached as **SHEET 4**) meets the design requirements set forth in the Chatham County Design Guidelines and has been approved by the Chatham County Appearance Commission.

(4) Lighting: The new lighting ordinance provisions incorporated into the Zoning Ordinance (Section 11A) will be followed. See **SHEET 5**.

(5) Noise: There should be no significant type of noise associated with this use.

(6) Chemicals, Biological and Radioactive Agents: The operation will generate no chemical, biological or radioactive agents.

(7) Signs: Applicant seeks to have two signs well under the allowed size maximum. There may also be minimal directional signage within the parking lot area for safety and information.

***Finding #4: The requested permit will be consistent with the objectives of the land development plan.***

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

(2) Watershed Considerations and Flood: The watershed classification is WS-IV-CA. Up to twenty-four percent (24%) impervious surface or "built-upon area" is allowed. The actual projected impervious surface is less than 22%. None of the property is within a flood plain. The land is all Zone X on the flood maps. Further, the Watershed Protection Area specifically designates this intersection as appropriate for eating and drinking establishments.

***Finding #5: 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.***

(1) Water Source and Requirements: All water necessary for the business will be supplied by well water. No exceptional water demand is anticipated.

(2) Wastewater Management: No additional wastewater management is needed in connection with the requested permit. The necessary wastewater capacity for employees will be handled by the existing septic system. The balance of the restaurant wastewater will be subject to grease traps and a pump and haul provider unless or until it an on site system can be approved by the County or State as applicable.

(3) Water/Sewer Impact Statement: Not applicable. No public utility involved.

(4) Access Roads: There are currently two driveway accesses to the Property. That will be reduced to one full access driveway approved by DOT.

(5) Storm water Runoff: The stormwater management plan is set out on **SHEET 3**.

BRADSHAW & ROBINSON, LLP

BY:



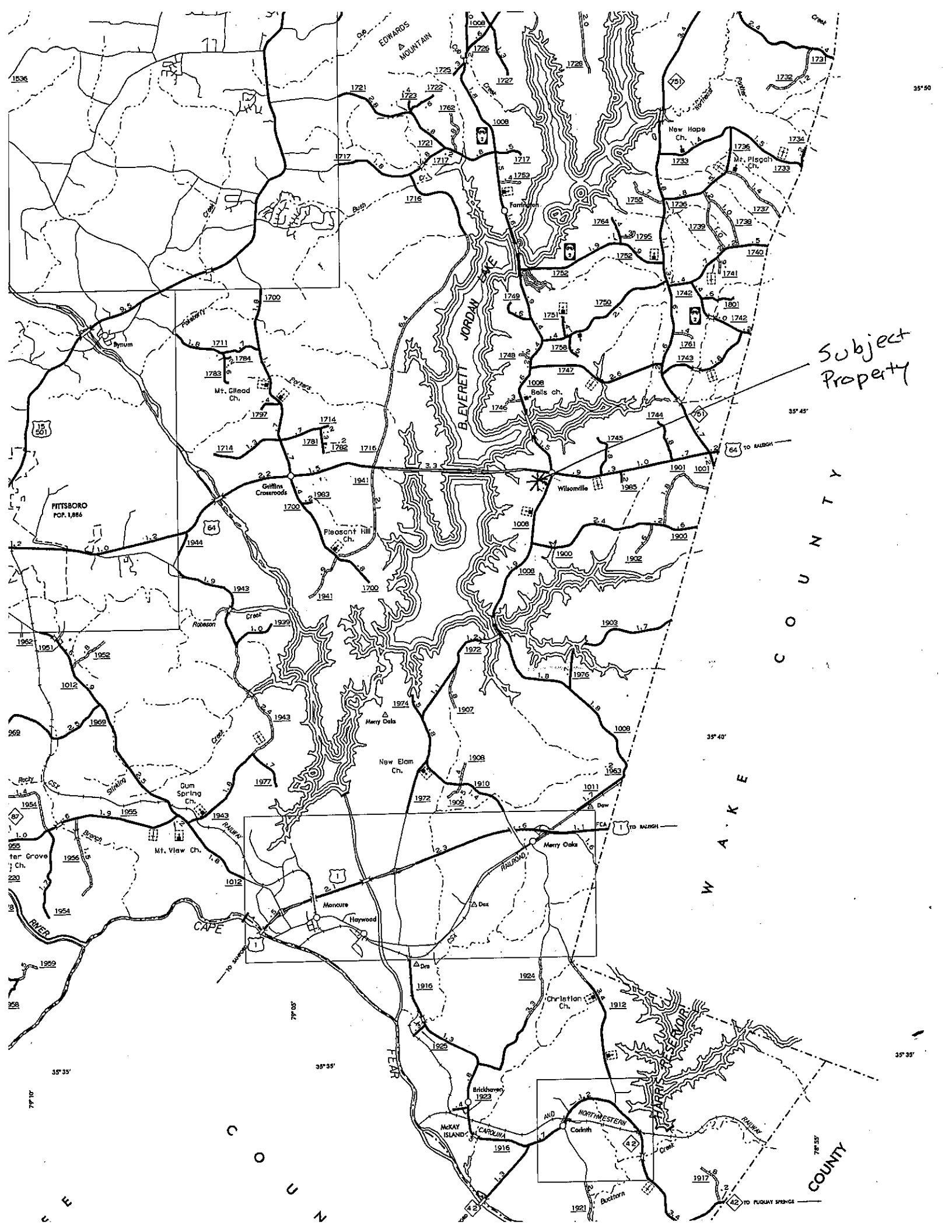
Nicolas P. Robinson  
Attorney for Applicant  
Post Office Box 607  
Pittsboro, NC 27312  
(919) 542-2400

Subject Property

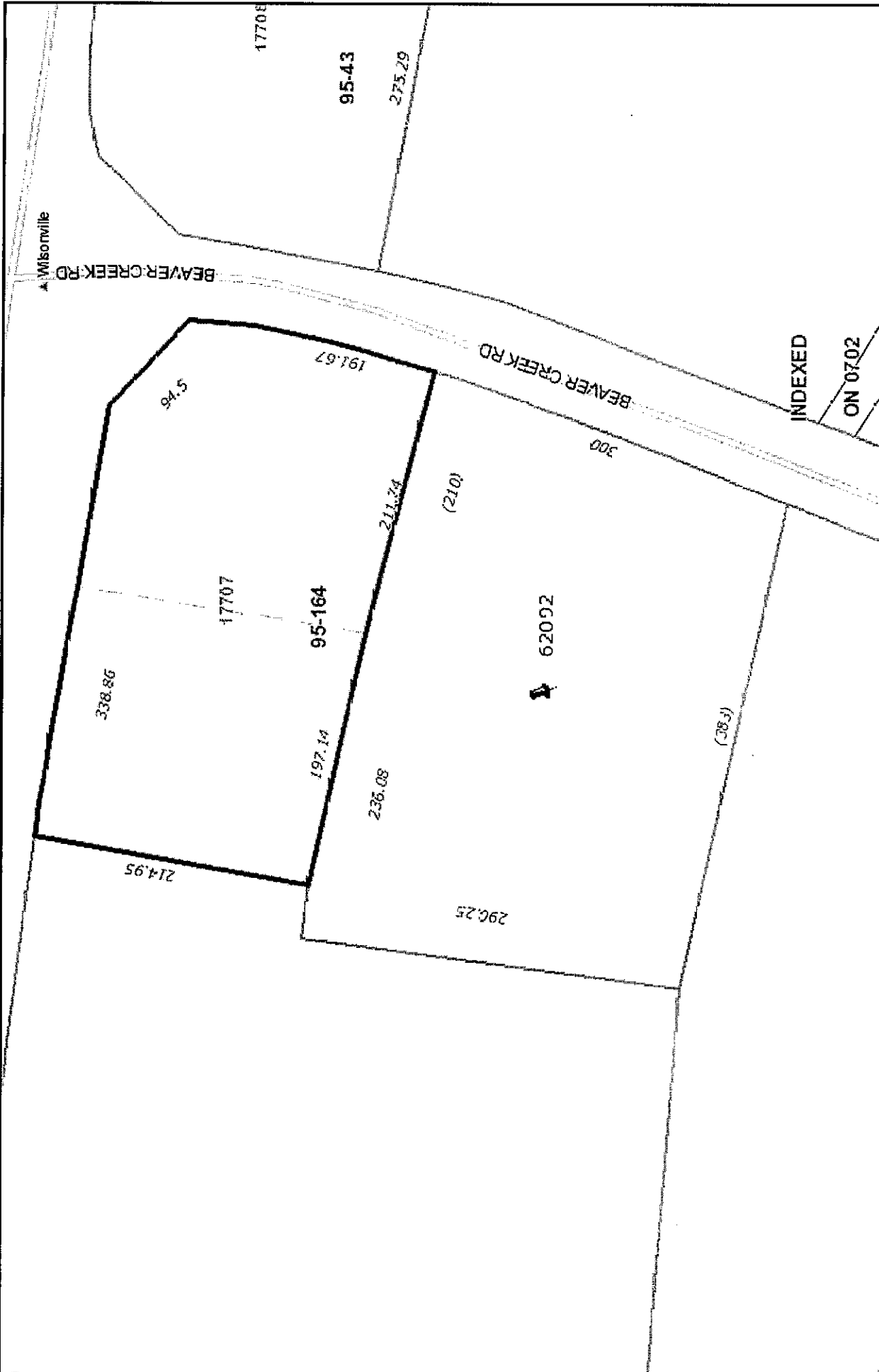
C O U N T Y

W A K E

C O U N T Y







CHATHAM COUNTY, NC

PROPERTY MAP



**Disclaimer:**  
 The data provided on this map are prepared for the inventory of real property found within Chatham County, NC and are compiled from recorded plats, deeds, and other public records and data. This data is for informational purposes only and should not be substituted for a true title search, property appraisal, survey, or for zoning verification.

Parcel Number: 17707  
 Map Number: 9792-92-6875.000  
 Owner Name: MICH GARDENS AT JORDAN LAKE INC  
 Owner Address: 86 BEAVER CREEK RD  
 Owner City: APEX  
 Owner State: NC  
 Owner Zip: 27502  
 Description: P5-5

Dead Book: 924  
 Deed Page: 0981  
 Plat Book: 95  
 Plat Page: 0263  
 Deed Acres: 2.15  
 Physical Address: 10544 US 64 E  
 Improvement Value: 122614  
 Land Value: 134425  
 Fire District: 107  
 Township Code: 11

One Inch = 100 Feet

