

PLANNING & ZONING REVIEW NOTES

VIII. E.

SUBJECT:

Request by **Carolina Utility & Grading** located at 2835 Farrington Point Rd., Parcel No. 76255, for a revision to the existing conditional use permit to add the selling of retail materials used by the applicant and to include the rental of contractor equipment to the general public, located on approximately 14 acres, Williams Township.

ATTACHMENTS:

The following was submitted at the October 7, 2008

Planning Board meeting:

1. Application packet

The following may be viewed on the Planning Department website at www.chathamnc.org under Rezoning & Subdivision Cases, 2008:

2. Aerial photo from 2007
3. Approval letter dated June 21, 1999 from the Governor's Club authorizing sewer connection.
4. Letter dated November 12, 1999 from NCDENR on wastewater collection.

INTRODUCTION & BACKGROUND:

A quasi-judicial public hearing was held on this request November 17, 2008. No spoke in opposition of the request. Gloria Perez, owner, was present to address concerns.

A conditional use permit for a contractor's storage yard, office and staging area for construction contractors including storage and service buildings and related facilities was approved December 15, 1997.

DISCUSSION & ANALYSIS:

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

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 facility has had approval to operate since 1997 and has continued to do so as approved. Page 27 of the Land Conservation and Development Plan states there should be a continuation of current activities that will support existing industrial and commercial areas.

It is the opinion of the planning staff **Finding #2** has been supported. This company has continued to operate for the last decade. The applicant wishes to expand services to address the need for some small tool and equipment rental for the “do it yourself” market as well as to other contractors. There was a concern raised at the public hearing that a service similar to this already exists within a short distance to this property. This type of service is not currently offered within this area of the county. JA Farrell’s Store, just over one mile south of this property, at one time offered this type of service. However, when Mr. Farrell was approved for his US 64 E site in 2004, the rental portion moved there.

There was a concern about the size of equipment the applicant would be offering stated at the public hearing. The applicant stated there will be no large or heavy equipment available for rent such as bobcats, tractors, etc. They will have items such as different types of saws, ladders, etc. that citizens can rent. There will be no servicing of equipment for general use by the public available as would be customary with a repair shop. The applicant will maintain their own equipment and the equipment they rent out only.

It is the opinion of the planning staff that **Finding #3** is supported. There are no improvements needed to support the additional use in regards to NCDOT and their commercial driveway. The applicant will utilize the existing 10,000 square foot shop to store the tools and small equipment so no new structures or buildings are requested. There is no additional lighting or signage requested and noise is not anticipated to increase by adding this service.

Currently equipment such as truck beds may be rinsed off after they are used. The applicant stated there is a small concrete slab used as a rinse off area behind the shop. There is also a 4 x 4 sediment basin which was installed during the construction of the building to catch product before it is then filtered out onto the property. On the occasion there could arise the need to rinse off some of the rental equipment when it is returned. Staff contacted the North Carolina Division of Water Quality (NCDWQ) to inquire if the sediment basin was compliant with the use being made of it. Mr. Danny Smith stated a site visit will need to be conducted before they could provide a report. He had not dealt with this project in its beginning and those that did were no longer with his office. Staff will add a condition to be met satisfying the inquiry.

It is the opinion of planning staff that **Finding #4** has been supported. Page 27 of the Land Conservation and Development Plan states there should be a continuation of current activities that will support existing industrial and commercial areas. This site is not part of “strip development” as can be seen on page 4 of the Plan, Item No. 13 and does not negatively change existing land conditions. This property is adjacent on the rear and on part of the southern boundary to lands owned by the United States Army Corps of Engineers. The applicant took measures previously by installing silk fences and barriers, stormwater detention areas, and a sediment basin to ensure there would be no negative impact on ground and surface waters as can be seen on pages 38-46 of the Plan.

It is the opinion of planning staff that **Finding #5** has been supported. Staff’s calculation of existing impervious surface is approximately 30%. The current maximum allowance is 36%.

This property is currently connected to the wastewater treatment facility for Governors Club which is now handled by Aqua NC. This wastewater system handles the restroom facilities on the property. County water will continue to be used.

The current access road will continue to be used. No improvements are required. There is no additional land disturbance to be done requiring amendments to the stormwater measures already in place on the property.

It is the Planning staff opinion that all five conditions have been met as stated above and therefore the request should be approved with conditions as stated.

RECOMMENDATION:

The Planning Board has up to three meetings to make a recommendation to the Board of Commissioners on this request. It is the recommendation of the Planning staff that this application be approved. It is requested the Planning Board review any additional conditions imposed upon the request at this time:

Site Specific Conditions:

1. All previous conditions not expressly listed in this approval shall remain valid.
2. Additional landscaping shall be installed to provide more of an opaque screen of at least 25 feet in depth along the front property boundaries along Farrington Point Road. The Chatham County Appearance Commission may provide suggestions of plant material to meet the request. Plantings shall be installed at the next optimal planting season starting in March 2009 or as indicated by a licensed landscape contractor.
3. No additional signage is permitted with this request.
4. A report shall be provided to the Planning Department from NCDWQ advising of the compliance status of the sediment basin or the corrective measures that must be taken before the incorporation of cleaning of rental equipment on the property.

Standard Site Conditions:

5. Lighting shall be installed and maintained as per the adopted lighting regulations located in Section 11A of the Chatham County Zoning Ordinance. Any lighting or fixtures found to be non-compliant with the regulations shall be replaced at the expense of the landowner/operator and shall hold no liability against Chatham County for the compliance measures.
6. Off-site improvements required by NCDOT or any other agency shall be constructed at no cost to Chatham County, if applicable.

Standard Administrative Conditions:

7. 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.
8. 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.
9. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued determination with the plans and conditions listed above.
10. Non-Severability - If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
11. 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.