

PLANNING & ZONING REVIEW NOTES

V. D.

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**SUBJECT:** A request by **Winter Customer Yachts, Inc.** on behalf of Apex Nurseries, Inc., located off Holland's Chapel Road, New Hope Township, for a Conditional Use Permit for light manufacturing or processing with associated retail sales for boat assembly and boating and fishing supplies.

**ATTACHMENTS:** *The following was submitted at the March 4, 2008 Planning Board meeting:*

1. Application packet

*The following may be viewed on the Planning Department website at [www.chathamnc.org](http://www.chathamnc.org) under Rezoning & Subdivision Cases, 2008:*

2. Arcview zoning map
3. Email from the Appearance Commission approving the revised site plans.
4. Revised site plans dated March 17, 2008
5. Preliminary soils report dated March 17, 2008
6. Email from NCDOT dated March 17, 2008

**INTRODUCTION & BACKGROUND:**

A quasi-judicial public hearing was held on this request March 17, 2008. Mr. Nicolas Robinson presented the request. There were also concerns voiced by a non-adjacent property owner who is typically not considered an "interested party" (such as an adjacent property owner) under quasi-judicial hearing procedures. The concerns were lighting and rural atmosphere. These concerns are addressed in the following notes. The conditional use permit cannot be approved unless the conditional use zoning district request is approved. In the event the conditional use zoning district change is recommended for approval, the findings as set forth in the requirements for a conditional use permit must likewise be supported for the request to be implemented.

**DISCUSSION & ANALYSIS:**

A recommendation of 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 **Finding #1** may be made provided the conditional use light industrial zoning district is approved.

It is the planning staff opinion **Finding #2** has not been supported. The Land Conservation and Development Plan does encourage balanced growth and the creation of Economic Development Centers. Apex Nurseries is a long standing employer and business in Chatham County. The activity fits within the description of rural character by operating an agricultural based business on 100 +/- acres. The business primarily supplies the needs of landscaping contractors but can supply general retail to others. Jean's Strawberry Patch has served citizens for several years with a seasonal, agricultural business. These are examples of two businesses that serve the surrounding area and allow for local growers to continue supplying the county with services and an economic base with no additional impact on additional county services such as schools.

In the application, a desire to protect the environment is noted. It is planning staff opinion the method to doing that is not made. Land disturbing activity will be required to make way for the business operation.

Chatham County has lost several hundred jobs over the past year and new business is encouraged as can be seen in the Land Conservation and Development Plan. The application notes an increase in approximately 12-15 new jobs. Business is encouraged to be guided to appropriate locations and be in keeping with the character of the surrounding area. It is staff opinion that has not been met with the proposed business.

The application uses Jordan Lake as a prime attractor for tourism. However water craft of this size cannot be accommodated by any of the Jordan Lake boat ramps or lift equipment per the Jordan Lake State Park's staff.

It is the planning staff opinion **Finding #3** has been supported. There is no expected increase in emergency services or impact on other county services such as schools for the business. Traffic utilizing the site is expected to be minimal in comparison to the activity from the nursery. Visual impacts and screening can be managed through recommendations from the Appearance Commission and other conditions placed with an approval of the request. For example the structure that will house the assembly of the craft will be to the rear of the property and vegetative screening has been recommended. Other issues such as lighting and noise are controlled by their respective ordinances. Please refer to Exhibit C of the revised plans.

The applicant stated at the public hearing the chemicals they will be using are an epoxy resin not polyester resin and therefore are deemed less harmful. Per the applicant these are to be non-combustible projects so a sprinkler system should not be needed. Finishing of the boat with sealants and so fourth will be performed at other locations outside of Chatham County. The applicant also used the term "green" boat assembly which consists of a vacuum bag infusion. The crafts are wooden formed hulls incased in fiber glass.

The applicant has expressed the desired size sign to advertise the property as 10 foot x 10 foot (100 square feet). Generally, the light industrial designation would allow for a 200 square foot sign.

It is the planning staff opinion **Finding #4** has not been supported. As stated in the request for the conditional use light industrial zoning designation, it is staff opinion the intent of the Plan has not been met in keeping with rural character, the location of Economic Development Centers, and in the area of existing commercial and industrial zoned properties. Please refer to the notes for the rezoning classification for further explanation.

It is the planning staff opinion **Finding #5** may be supported. The property will be served by private well and there is an existing septic system that is permitted for up to 360 gpd. The anticipated usage is 300 gpd. However, the reports from the soils scientist states 25 gpd are needed per employee and for 15 employees that calculates to 375 gpd. There is also a requirement for 120 gpd for every 1000 square feet of retail. An 1800 square foot structure is proposed for that particular use. That makes an additional requirement of approximately 240 gpd added to the 375 needed for the proposed 15 employees making a total gpd requirement of 615. This discrepancy can be resolved through the conditions and permitting from the public health department. There are no other public utilities required to supply the site.

The NCDOT office has reviewed a preliminary plan and will be permitting a single driveway for ingress and egress for the site. Traffic generated from the site is expected to be minimal in comparison to the nursery business in the past and general flow through traffic. Holland's Chapel Road is listed as a local road which connects to two major collector roads being NC Hwy 751 and SR 1008 (Farrington Point Rd). The applicant has stated he anticipates constructing one boat every 2-3 years with some smaller boats as well. There will be a small retail business associated with the approval that could add to additional traffic going to and from the site. NCDOT has no issues with an increase in this traffic.

The applicant also stated during the Appearance Commission meeting the hours of operation were to be generally 8 am to 5 or 6 pm; no night work and days of operation to be Monday through Saturday; no Sunday work. Lighting of the property and/or buildings is shown on Exhibit F of the revised plans.

The watershed classification for this area is WSIV-PA which limits the amount of impervious surface to 36%. The projected impervious surface is approximately 8%.

It is anticipated any stormwater measures will be handled utilizing the existing pond located on the property as shown on Exhibit G of the revised plans.

It is the recommendation of the planning staff that the request be denied based on Findings #2 and #4 not being supported. The need and desirability has not been met by keeping with the character of the surrounding area of residential/agricultural zoned property, it is not located within an area designated for an Economic Development Center, and does not support the tourism industry in connection with Jordan Lake. Finding #4 has not been supported as being an area associated with an Economic Development Center location as described in the Land Conservation and Development Plan. It is not in keeping with the rural character of the applicant's nursery business located on the property for the past 80 plus years.

*Re: Winter Customer Yachts, Inc.*

**RECOMMENDATION**

The Planning Board has up to three meetings to make a recommendation to the Board of Commissioners. It is the recommendation of the Planning staff that this application be denied. If the Planning Board's recommendation is to be a favorable one, it is requested the Planning Board consider the conditions listed below.

**Site Specific Conditions:**

- 1) All landscaping shall be installed as approved by the Chatham County Appearance Commission and as shown on the approved site plan. The Appearance Commission and/or the Planning Department may review the effectiveness of such plantings after the first year of planting to ensure optimal screening and visual impacts are in compliance and as well as other times deemed to be valid from hence forth.
- 2) For zoning line verification and purposes, a new property map is to be drawn creating one parcel with meets and bounds descriptions and filed with the Register of Deeds Office and a copy supplied to the Planning Department prior to the issuance of a certificate of occupancy for the first structure. This is considered a recombination of lot lines and therefore exempt from subdivision regulations.
- 3) The single family dwelling unit shall be removed from the property prior to the issuance of a certificate of occupancy for the first structure.

**Standard Site Conditions:**

- 4) All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Erosion & Sedimentation Control, Environmental Health Division, Wastewater Permits, etc.) shall be obtained and copies submitted to the Planning Department prior to the issuance of a certificate of occupancy of the first structure.
- 5) Lighting shall be as regulated, 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) Stormwater runoff measures shall be installed to meet the 2 year, 24 hour storm event and a plan displaying the location and measures taken shall be supplied to the Planning Department prior to issuance of the first building permit.
- 7) An "as-built" impervious surface calculation shall be submitted to the Planning Department prior to issuance of a certificate of occupancy for the first structure.
- 8) Parking shall meet Section 12 Off-Street Parking and Loading of the Zoning Ordinance and included in a site plan before certificate of occupancy will be issued.

**RECOMMENDATION** - con't

- 9) Off-site improvements required by NCDOT or any other agency shall be constructed at no cost to Chatham County.
- 10) A building permit shall be obtained within 24 months and remain valid at all times or this permit shall become void.

**Standard Administrative Conditions:**

- 11) 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.
- 12) 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.
- 13) Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued determination with the plans and conditions listed above.
- 14) Non-Severability - If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
- 15) 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.