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P. O. Box 1809, Pittsboro, NC 27312-1809 • Phone: (919) 542-8200 • Fax: (919) 542-8272

A RESOLUTION APPROVING AN APPLICATION FOR A CONDITIONAL USE PERMIT REQUESTED BY Winter Custom Yachts on behalf of Apex Nurseries Inc.

WHEREAS, Winter Custom Yachts on behalf of Apex Nurseries Inc., has applied to Chatham County for a conditional use permit for an area containing approximately 11.54 acres located on Holland's Chapel Road, off NC Hwy 751, New Hope Township, from RA-40 Residential Agricultural to Conditional Use Light Industrial (CU-Ind L) for a light manufacturing or processing with associated retail sales for boat assembly and boating and fishing supplies.

WHEREAS, the Chatham County Board of Commissioners, having considered all of the evidence in the whole record and based upon the competent, substantial and material evidence in the record, including, without limitation, the Applicant's written materials, all of which are incorporated herein by reference, hereby finds as follows:

1. The uses requested are among those listed as an eligible conditional uses in the district in which the subject property is located or is to be located. Light manufacturing or processing not otherwise named herein, retail sales and personal service shops are permitted uses under the light industrial classifications of the Zoning Ordinance.
2. The requested conditional use permit is either essential or desirable for the public convenience or welfare because, among other reasons, the Land Conservation and Development Plan encourages a mix of development for economic development and this is an area suitable for this activity. The use will provide employment opportunities as well as preserve the form and function of rural character as described in the land development plan. The business will provide economic benefits to the county by adding to the tax base, generating new tax revenues, both ad valorem and sales, creating new employment opportunities, and facilitating tourism. The permit and requested uses are also desirable because they will generate very little additional traffic and will not tax county services such as schools, police and fire protection.
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. Among the evidence supporting this finding is the following: Traffic utilizing the site is expected to be minimal in comparison to the activity of the nearby nursery. The facility is to be to the rear of the property limiting visibility from the road and adjacent property owners. The minimal number of chemicals used in the construction of the water craft will all be used, stored and disposed of in accordance with manufacturer's and governmental safety specifications. Where

possible, “green” boat assembly practices will be used making it a more environmentally protective operation. Precautions will be taken to ensure as much as possible that any chemicals used will be captured inside the building, properly disposed of and not allowed to exit the building in such a way as to drain into surrounding water features or into the ground. Lighting is to be minimal and in conformity with the lighting requirements of the Zoning Ordinance. The vegetative buffers and screening set out in the approved site plan have been well designed and improved through Appearance Commission review such that the integrity and character of the surrounding area will not be impaired.

4. The requested permit is consistent with the objectives of the Land Development Plan by, among other things, preserving the form and function of rural character, by supporting employment opportunities in Chatham County, and by encouraging balanced growth that consists of a mix of different types of development. There is no other facility of this nature located in Chatham County. The rezoning is appropriate under the standards set forth under Section 17 of the Chatham County Zoning Ordinance. Although not a typical home based business, the owners of this property also own or are affiliated with certain surrounding residential and business properties, including Apex Nurseries and Jean’s Berry Patch and this use could provide an accessible diversification to boost the county’ economy. The functioning of the residential/agricultural appearance would not be compromised due to the business being located well off the road and screened according to an approved site plan and through conditions. This development is situated in a suitable location and has been designed appropriately. While the property is conveniently located to Jordan Lake it is not in a critical watershed area, nor a conservation area. The requested use is further consistent with the Land Development Plan because (1) it is in an area especially suited for particular businesses (this boating business located near Jordan Lake and among other businesses); (2) it is in an area tied to transportation infrastructure (this site is located just off NC 751); (3) it is in an area that minimizes impact of businesses on areas of the county (this use is close to other businesses, significant east-west intersections on NC Highway 751 and has convenient access to Jordan Lake); and (4) it is commercial development that pays for itself (this use will not impose any significant financial burden on the County but will create jobs, increase tax revenue and local spending). Further, the business is sited near a major highway, and clustered with other businesses.

5. Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary facilities have been or are being provided through the proposal consistent with the County's plans, policies and regulations and confirmed through conditions placed on its approval as seen below. The property will be served by private well and septic. The NCDOT office has approved a preliminary commercial driveway permit for the use proposed and the amount of impervious surface coverage will be approximately 8%; well below the maximum allowance of 36%. An existing pond will be used as the stormwater collection and management so no other land disturbing for stormwater retention is anticipated. Wastewater treatment capacity is sufficient.

NOW, THEREFORE, BE IT RESOLVED BY THE CHATHAM COUNTY BOARD OF COMMISSIONERS, as follows:

That a Conditional Use Permit be, and it hereby is, approved for the reasons hereinabove stated subject to the additional stipulations and conditions set forth hereinafter; and

BE IT RESOLVED FURTHER, that the Chatham County Board of Commissioners hereby approves the application for the conditional use permit in accordance with the plan submitted by the Applicant, Winter Custom Yachts on behalf of Apex Nurseries, attached hereto and incorporated herein by reference with specific conditions as listed below:

Stipulations Specific to the Application

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. In addition to the plantings shown on the approved landscaping plan, there is to be additional under story vegetation planted along the front of the property from the southeast corner of the parcel extending to the existing wooded area (that is to remain) to screen the pond view and provide a better “view shed” buffer. The additional under story plantings will be consistent with the other under story plantings shown on the plan.
- 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 house on this property may no longer be used as a single family dwelling unit but may be used as living quarters for a “care-takers/security” facility.

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.
- 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 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. Building permits shall remain valid at all times or this permit shall become void. Should an extension request that is reasonable and necessary be desired, a timely filed application for such an extension may be approved by the County (this may be done by Commissioners’ action without a public hearing).

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.

BE IT FURTHER RESOLVED, that the Board of Commissioners of the County of Chatham hereby approves the application for a conditional use permit in accordance with the plans and conditions listed above.

Adopted this, the 21st day of April 2008

By: _____
George Lucier, Chairman

ATTEST:

Sandra B. Sublett, CMC, Clerk to the Board
Chatham County Board of Commissioners