



**CHATHAM COUNTY
BOARD OF COMMISSIONERS
AGENDA ABSTRACT**

ITEM NUMBER:
MEETING DATE:
7-21-08

PART A

Subject:

A request by Nicolas P. Robinson, Attorney at Law, on behalf of Baycorp Development, Inc. for an 18 month extension of their Conditional Use Permit on property located near the corner of US 15-501 N and Mann's Chapel Road, Parcel No. 2641, Williams Township.

Action Requested:

See Recommendations and *updated Planning Board information in italicized wording.*

Attachments:

The following was submitted at the June 18, 2008 Board of Commissioner's meeting:

1. Presentation by Nicolas P. Robinson

The following can be viewed on the Planning Department webpage at www.chathamnc.org/planning, Rezoning and Subdivision Cases, 2008:

2. Email from Nicolas P. Robinson dated June 12, 2008.

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: Baycorp Development, Inc.

Introduction / Background / Previous Board Actions:

Baycorp Development, Inc. was approved for a Conditional Use B-1 District and a Conditional Use Permit for various uses on October 17, 2005. Condition No. 9 stated “this permit shall automatically expire on the second anniversary of its issuance unless (a) construction has commenced after the issuance of a zoning determination and building permit; or (b) a timely filed application for an extension of time has been approved by the county. At one point there were negotiations between Baycorp and a bank. Those negotiations had been delayed. Baycorp came before the Planning Board on September 4, 2007 requesting an extension of Condition No. 9 for two years. The Planning Board voted 5-5, a tie vote, to approve the extension.

The Board of Commissioners reviewed the recommendations and voted on October 1, 2007 to extend the conditional use permit for nine months. ***Mr. Robinson pointed out at the July 8th Planning Board meeting this nine month extension was in place of the requested two year extension. This is in part why they are back before the Board again with the extension request.*** This made the new deadline July 17, 2008. There was also a statement in that approval that said Baycorp could return to the Board, should the need arise, to an additional extension.

Mr. Robinson emailed a request to the County Manager, Charlie Horne, asking to be placed on the Commissioner’s agenda for June 16, 2008 asking for an additional extension of 18 months.

The Board of Commissioners reviewed the request by Nicolas Robinson on behalf of Baycorp at their work session on June 16, 2008. At that time the Board voted to allow a three (3) month extension to allow time for the request to be placed on the Planning Board’s next agenda.

At the July 8th Planning Board meeting, Mr. Robinson stated there are still negotiations with a bank and the developer. However, the developer is prepared to move onto another permitted use as described in the original conditional use permit approval should the bank request not happen. He stated the bank is also looking at locating in the approved Williams Corner site just south of this location.

The Planning Board voted 8-2 to approve the extension as stated in the condition wording below:

Issues for Further Discussion and Analysis:

If the permit expires, the property would have a Conditional Use B-1 District without benefit of a Conditional Use Permit. Generally it is not practical to have a conditional use zoning district without a specified conditional use permit to go along with it. The Chatham County Zoning Ordinance states in Section 15.1 that in granting conditional use permits, the purpose and intent of the ordinance is to be served, public welfare secured, and substantial justice done. Baycorp Development has been issued a conditional use permit because it was determined the five findings were met. One of those findings was need and desirability. If the Board were to choose not to recommend approval of the extension and allow the permit to expire, legal advice is recommended.

Recommendation: The Planning staff and Planning Board (by vote of 8-2) recommend the extension request be approved but with stipulation/s as follows:

1. This permit shall expire in 15 months (January 17, 2010) from the latest approval date as approved by the Board of Commissioners unless a building permit is issued. There shall be valid building permits for the project at all times or the conditional use permit shall automatically expire.