

PLANNING & ZONING REVIEW NOTES

VI. B.

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**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.

**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](http://www.chathamnc.org/planning), Rezoning and Subdivision Cases, 2008:*

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

**INTRODUCTION & BACKGROUND:**

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. 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.

**DISCUSSION & 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 recommends the extension request be approved but with stipulation/s as follows:

1. This permit shall expire 15 months from the approval date 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.