

PLANNING & ZONING REVIEW NOTES

VII. F.

SUBJECT:

A request by **Doug and Cindy Carroll on behalf of Shady Wagon Farm** for a Conditional Use Permit for inns including accessory eating and drinking and personal service, training and conference centers which include various events, and a contractor's storage yard on approximately 22.14 acres located at 2312 Pea Ridge Road, Cape Fear Township.

ATTACHMENTS:

The following was submitted at the July 8, 2008 Planning Board meeting:

1. Application packet
2. Site Plan

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

3. Arcview map
4. Chatham County Appearance Commission Comments from June 11, 2008

INTRODUCTION & BACKGROUND:

A quasi-judicial public hearing was held on this request July 21, 2008. Doug and Cindy Carroll, applicants and landowners, presented the request. Sue Diggs, neighbor, and Janice Roberson, neighbor, spoke at the hearing in favor of the request. The conditional use permit cannot be approved unless the zoning district change is approved. If the recommendation of the Planning Board is to approve the rezoning request, a conditional use permit request is required to meet the findings as outlined in the zoning ordinance for approval.

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.

Re: Carroll - CUP

DISCUSSION & ANALYSIS – con't

It is the opinion of the planning staff **Finding #1** may be made if the zoning district is changed and approved as a Conditional Use O and I District.

It is the opinion of the planning staff **Finding #2** may be made. The applicants have been operating a permitted Bed and Breakfast Inn on this property for approximately two years. This request is to expand the services offered to allow large gatherings, such as weddings, wedding receptions, corporate retreats, and reunions of up to 200 people.

Employment Opportunities are not known at this time, but the use is expected to create some jobs. The Chatham County Tax Office has indicated tax impacts based on the conditional use approval could not be evaluated until the change is made and a new appraisal of the property was conducted. It is possible, per the Tax Office, property values would increase.

The application states that there are only two other similar uses in the County, Fearington Village on 15-501 and Celebrity Dairy near Siler City. The application also states that Shady Wagon Farm does not require any additional public services such as schools.

The application provides for a paved skirt access leading to a gravel drive off Pea Ridge Road for which a commercial driveway permit has been applied for with the NCDOT office.

It is the opinion of the planning staff **Finding #3** may be made. There is no anticipation of an increase in emergency services to this property as has been seen with the current use over the past year. The property does not include any State Natural Heritage Program sites. According to the Office of State Archaeology, there may be an Archaeological site on or near the property. A site inspection by staff revealed that the fields located on front of the property were established in the 1960s and have been used for agricultural purposes since, according to the landowner.

Traffic to the facility will be primarily generated during off-peak hours, such as weekends and evenings. The application states that at most, 70 vehicles and 200 guests are expected at any one event, with most events lasting 4 hours on average.

The applicants attended the Chatham County Appearance Commission meeting on June 11, 2008. The Appearance Commission was concerned that some of the buildings were too close to the property lines to allow adequate buffer plantings to be installed, so the applicant offered to erect a stockade fence of cedar posts along the boundary. The Appearance Commission also suggested that the owners contact the Chatham County Planning Department to incorporate the restrictions from the Conditional Use Permit into the rental contract, and contact the Appearance Commission after this was done. There has been no communication between the applicant and the Appearance Commission since the June 11, 2008 meeting.

DISCUSSION & ANALYSIS – con't

The application states that the use will not violate the County noise ordinance, which is enforced by the Chatham County Sheriff's Office, and receptions generally last up to 4 hours. Planning Staff has recommended a condition as noted below for protection of adjacent property owners.

There is one existing monument-style sign at the entrance that complies with the County Zoning Ordinance. Planning staff visited the site on July 25, 2008, and found that all buildings meet the applicable setbacks. Staff also determined that the required parking will be provided on-site with little impact to emergency vehicle access.

It is the opinion of planning staff **Finding #4** is supported and may be made. As encouraged in the Land Conservation and Development Plan, the form and function of rural character is being maintained at the property. There are few other facilities such as this located in Chatham County to aid in growth with a mix of different types of uses as seen on page 1 of the Plan. The Land Conservation and Development Plan makes several references to "preserving rural character" as can be seen on pages 1, 11, and 16. Large lot development is also encouraged within certain rural areas as is noted on page 21 of the Plan. This property is over 20 acres in size, and maintains a rustic farm appearance.

Page 47 of the Land Conservation and Development Plan begins the conversation on open space, recreation, historic assets and tourism. According to the Plan, the County has several local organizations involved in promoting historic assets and tourism, one of which is the Chatham County Travel and Tourism Board. Planning staff spoke with Chatham County Travel and Tourism Director Neha Shah, who advised that the County relies on these types of businesses to bring people to Chatham County since the County does not have an event center or large hotel.

It is the opinion of planning staff **Finding #5** has been supported or may be supported through conditions. Water is currently provided to the facility by private well, and wastewater is handled by an existing septic tank system. County water is available on Pea Ridge Road; however the structures for the business are over 1,000 feet from the road right of way and are not required to tap onto County water. The applicants are in the process of working with the Environmental Health Section of the Chatham County Health Department and the Central Permitting Department to ensure proper wastewater treatment by conventional septic system, water supply and compliance with North Carolina Building and Fire Codes. The County Fire Marshal has stated that a fire hydrant connected to a public water supply may be required. The Building Inspections Department has advised that the North Carolina State Building Code does not require structures to have sprinkler systems that are capable of housing gatherings of less than 299 people, effective only between July 19, 2008 and January 1, 2009. After January 1, 2009, any structures capable of gatherings of 99 people or more will be required to have sprinkler systems installed. If the applicants propose any new structures or additions to existing structures after January 1, 2009, those structures may be required to have sprinkler systems.

DISCUSSION & ANALYSIS – con't

Storm water runoff or detention ponds are not required as there is no additional construction requested or approved for this request. The applicants shall show that the existing pond will support a 2 year, 24 hour storm event prior to issuance of a Certificate of Occupancy. There appears to be no creeks, streams or other water features associated with this property according to the County GIS.

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 the conditional use permit be approved with the following conditions. If the Planning Board's recommendation is to be a favorable one, it is requested the Planning Board review any additional conditions imposed upon the request at this time:

Site Specific Conditions:

1. A preliminary field reconnaissance archaeological survey to determine the existence or absence of any site of likely archaeological significance will be performed by a professional archaeologist (as listed on the NC Dept. of Cultural Resources website). The reconnaissance survey shall be performed with consultation from the Office of State Archaeology. Areas determined by the NC Dept. of Cultural Resources, Archaeology/Historic Preservation Section as a low probability of likely significant sites are not required to be surveyed. Any site identified with likely archaeological significance shall have an intensive survey to determine significance, and that survey shall be sent to the Office of State Archaeology for review and recommendations. If a site is determined as a candidate for nomination to the "National Register of Historic Places", it shall be preserved or documented prior to being disturbed. The field reconnaissance survey shall be performed prior to land disturbing activity or before a certificate of occupancy approval is issued for the business. Any recommended intensive survey shall be performed prior to ground disturbing activity in the area of concern. The surveys shall be performed at the landowner's expense.
2. A Stockade Fence constructed of Cedar posts shall be erected along the property line running parallel to the Barn, Pavilion, and Picnic Shelter, as recommended by the Chatham County Appearance Commission. All other recommendations by the Appearance Commission regarding plantings and buffering shall be met. The Planning Department, with the Appearance Commission, reserves the right for periodic inspections to ensure vegetation is adequate.
3. A letter or certification from the Chatham County Fire Marshal, Building Inspections and Environmental Health Section of the Chatham County Health Department that all structures and access meet the necessary Building, Fire, and County/State Codes for the proposed use shall be obtained and provided to the Planning Department prior to issuance of a Certificate of Occupancy. A Certificate of Occupancy shall be obtained within 90 days from date of this approval or the Conditional Use Permit approval shall be invalid and void.

Site Specific Conditions - con't

4. Signage is limited to the existing monument style sign as located on the property. Any additional signage or change in signage must be approved by the Planning Department.
5. An as-built survey, showing the following structures meet all dimensional requirements of the Zoning Ordinance: Contractor's Storage Yard (and all associated structures), Pavilion, Barn and Picnic Shelter, shall be provided to the Planning Department prior to issuance of Certificate of Occupancy.
6. A building permit shall be obtained on any additional structures and remain valid at all times or this permit shall become void. The barn, pavilion, picnic shelter, and structures located within the Contractor's Storage Yard shall receive either an Engineer's Certification, submitted to Building Inspections, or a Certificate of Compliance from the Building Inspections Department on their construction and provided to the Planning Department.
7. The applicants shall submit an engineer's certification that the existing pond on the property will support a two-year, 24-hour storm event to the Planning Department prior to issuance of a Certificate of Occupancy.

Standard Site Conditions:

8. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Erosion & Sedimentation Control, Environmental Health Division, etc.) shall be obtained and copies submitted to the Planning Department prior to the issuance of a certificate of occupancy.
9. 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.
10. An "as-built" impervious surface calculation shall be submitted to the Planning Department prior to issuance of a certificate of occupancy.
11. Off-site improvements required by NCDOT or any other agency shall be constructed at no cost to Chatham County.

Standard Administrative Conditions:

12. 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.

13. 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.
14. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued determination with the plans and conditions listed above.
15. Non-Severability - If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
16. 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.