

PLANNING & ZONING REVIEW NOTES

VII. H.

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**SUBJECT:**

A request by **Scott and Diana Schultz** for a Conditional Use Permit in an RA-40 Residential/Agricultural District on approximately 5.45 acres of a 16 acre tract, Hadley Township, on Parcel No. 84022, located at 6545 NC 87 N, Pittsboro, NC, for a boarding kennel.

**ATTACHMENTS:**

*The following was submitted at the July 8, 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 map
3. Chatham County Appearance Commission Comments from July 9, 2008

**INTRODUCTION & BACKGROUND:**

A quasi-judicial public hearing was held on this request July 21, 2008. John Harris, representing the applicants, presented the request. A neighbor, Roy Hipple, spoke about concerns that are addressed below in Finding #3.

**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 opinion of the planning staff **Finding #1** can be made. The zoning designation for this parcel is RA-40 (Residential Agricultural). The parcel is approximately 16 acres in size, and the area proposed to be used for the kennel is approximately 5.45 acres in size. Under the list of permitted uses are allowable conditional uses that require a conditional use permit. Boarding Kennels are allowed in this district as a Conditional Use.

It is the opinion of the planning staff **Finding #2** may be supported. According to the application, there are 8 other businesses within a 15-32 mile radius of the proposed boarding kennel. The application states that the closest similar use is approximately 4 miles away, but instead of indoor-outdoor runs like the proposed use, offers a limited number of individual “cabins” for dogs.

The application states that, with the approved subdivisions in the northeastern portion of the County, the estimated number of households within 5 – 20 miles from the proposed kennel in 2012 will be 112, 003 with an estimated 41,665 dogs and 36,289 cats.

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 proposed boarding kennel may create 5-10 part-time and full-time employees as the use becomes built-out. The applicants are proposing a wage of \$8.00 per hour for the employees.

It is the opinion of the planning staff **Finding #3** may be made. The site plan shows approximately 10% of impervious surface over the entire site, and the WS-IV PA watershed allows up to 36 % impervious surface without curb and gutter. However, on page 3 the application it is noted that upon approval, the 5.45 acres reserved for this development will be handled as a minor subdivision and finalized upon approval of the Conditional Use Permit. The impervious surface recalculation on the 5.45 acres for the project is 29% impervious surface.

There is floodable area along the northern and northeastern property lines classified as an AE floodplain. The proposed use will be over 300 feet away from the northern boundary. A field determination has not been conducted on the property for any further stream designations as may be recommended by the Board. All development activity appears to be at least 200 + feet from the floodable area boundary as seen on the latest data provided from FEMA maps.

The NC Heritage Program and the Office of State of Archeology do not show any occurrences on the site.

Per the site plan all structures appear to be over 200 feet from any side or rear property line which exceeds the requirement for the district in which it is requested to be located in. The building setback along the front property line/ public right-of-way is over 100 feet. The applicant states in the application it intends on retaining the existing trees and shrubs as much as possible to allow for a natural buffer. Landscaping will also be added to “fill-in” areas to improve the site from the highway. The Appearance Commission has reviewed the landscaping plan and made recommendations that may be viewed on the webpage. These recommendations are also being made as part of the conditions listed below. Overall, the landscaping and screening is acceptable with staff and the Appearance Commission. In consideration of the “proposed” major corridor overlay districts, the buffers and structures have been set back in an attempt to incorporate some of that for this plan.

The application states that the generation of traffic for this facility is expected to be primarily during off-peak hours, most often during mid-morning or mid-afternoon hours. The application also states that the “theoretical” trip generation would be approximately 10-15 trips per day, which, according to the applicants, indicates that such a facility does not create a “high or even medium” trip-per-day generation. The application includes correspondence from the Chief of the Pittsboro Fire Department stating that fire protection of the facility will not be a problem and the application states that the Sheriff’s Office and County Fire Marshal have been consulted.

The proposed use will comply with the Chatham County Noise Ordinance, and the applicants have provided a noise analysis showing that the noise will be limited and will comply with the Noise Ordinance. The applicants have also provided a letter from an architect regarding the lighting of the proposed use. Any lighting will be required to comply with the Chatham County Zoning Ordinance.

There is one proposed monument-style sign at the entrance that will comply with the County Zoning Ordinance and as conditioned below.

It is the opinion of planning staff **Finding #4** is supported and may be made. The County Land Conservation and Development Plan states that a major policy of the Plan is to preserve both the form and function of rural character. The Plan also calls for balanced growth in the County. This proposal is proposed on a large lot with adequate buffering from neighbors and the NC 87 right of way. The proposed use is also located in close proximity to major subdivisions in the County.

It is the opinion of planning staff **Finding #5** may be made. County water is not available on the site per the Public Utilities Division and the applicants are proposing to use a private well to provide water to the facility. The application states that the existing well for the Schultz residence will be used until a second well for the proposed use can be developed and installed.

The application states that the proposed use will be served by a proposed conventional septic system properly sized for the use. The applicants have had a soil survey completed on the property that shows there is a large portion of the property with suitable soils. The Environmental Health Section of the Chatham County Health Department will enforce the needed requirements for the proposed use in connection with the septic system/s.

A commercial driveway request has been submitted to NCDOT and has been approved for the proposed access to the boarding kennel as shown on the site plan. The Chatham County Fire Marshal has had concerns regarding the curve radius of the proposed driveway, but the applicant has submitted information from the Pittsboro Fire Department stating that they will be able to serve the proposed use. A plan may be required to be issued and approved by the Fire Marshal before the installation of the drive to ensure emergency vehicles will have the property amount of turn radius it may need.

The application site drawings note that the amount of disturbed area of the 5.45 acre area is approximately 3.48 acres. The applicant will be required to contact the Chatham

County Erosion & Sedimentation Control Division to obtain any land disturbing permits that may be required. Control measures for runoff and sediment while the development of the site is taking place are considered at that time. After the development is complete, the application states that storm water will be handled by the existing roadway ditches and the existing streams by “sheet flow” as part of “green” design standards. The surrounding land will remain in an undisturbed state and in the ownership of the current landowner per the applicant.

A surface waters and wetlands delineation report was conducted by Burdette Land Consulting, Inc. on June 19, 2008. The proposed development site of 5.45 acres does not have any issues of concerns regarding streams or other water features as stated. The report also recommends the landowner contact them again to request further verification that no permit is required for the proposed development due to the thickness of the vegetation and the limited area of evaluation opportunity during this inspection.

**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 this application request be approved. 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 buffer composed of evergreen plantings, with a different choice for landscape plantings, as specified on the list of recommended plant material provided by the Appearance Commission, shall be planted during the next optimal growing season after approval, 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.
2. Signage is limited to one monument style sign as drawn on the site plan. The sign area itself shall not exceed 32 square feet as described in Section 13.5 of the Zoning Ordinance.
3. The applicants shall submit an engineer’s certification that the existing roadway drainage ditches and streams on the property will support a two-year, 24-hour storm event to the Planning Department prior to issuance of a Certificate of Occupancy if allowed to be used as such. Otherwise a storm water detention pond may be required to be installed to meet the requirement.
4. The site plan shall serve as the “sketch” design when the applicant applies for the minor subdivision of the property as stated in the application.

**Recommendation** – con't

**Standard Site Conditions:**

5. 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.
6. 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.
7. An “as-built” impervious surface calculation shall be submitted to the Planning Department prior to issuance of a certificate of occupancy.
8. Off-site improvements required by NCDOT or any other agency shall be constructed at no cost to Chatham County.
9. A building permit shall be obtained and remain valid at all times or this permit shall become void. The first building permit for the first structure shall be approved and submitted within 24 months of this approval or the permit becomes void; or the expiration of the appeal period or any court decision, whichever is later.

**Standard Administrative Conditions:**

10. 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.
11. 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.

*Re: Scott Schultz and Diana Dodge*

**Recommendation**

**Standard Administrative Conditions** – con't

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