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A RESOLUTION APPROVING AN APPLICATION FOR A CONDITIONAL USE PERMIT REQUESTED BY Scott and Diana Schultz

WHEREAS, Winter Scott and Diana Schultz, has applied to Chatham County for a conditional use permit for an area containing approximately 5.45 acres out of a 16 acre tract, located on Parcel No. 84022, adjacent to 6545 NC 87 N, Hadley Township, RA-40 Residential/Agricultural District, for a boarding kennel.

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. Boarding kennels are listed as permitted conditional uses in this district with an approved conditional use permit.
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 provide economic benefits to the county by adding to the tax base, generating new tax revenues, both ad valorem and sales.
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 and mainly during off-peak hours, most often during mid-morning or mid-afternoon. The facility is to be to the center of the property limiting visibility from the road and adjacent property owners by being at least 100 feet from the front property line and 200 feet +/- from any side or rear property line/boundary. The owner will maintain ownership of the surrounding acreage being the balance of the parcel. Lighting is to be minimal and in conformity with the lighting requirements of the Zoning Ordinance allowing specifically for downcast lighting of the entrance sign. 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. This request also incorporates the large lot development as described in the Plan and is in close proximity to major subdivisions to offer a service not readily available in the area.

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; county water is not available at this time. The NCDOT office has approved a preliminary commercial driveway permit for the use proposed and the amount of impervious surface coverage will be approximately 29% of the 5.45 acre site; 10% of the entire 16 acre tract; below the maximum allowance of 36%. Stormwater runoff and retention as well as erosion and sedimentation control will utilize "sheet flow" as part of "green" design standards.

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, Scott and Diana Schultz, attached hereto and incorporated herein by reference with specific conditions as listed below:

Stipulations Specific to the Application

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. *The sign is shall not have any lighting other than exterior downcast lighting, directed on the sign face.*
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 *major* subdivision of the property as stated in the application.

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.
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.

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 18th day of August 2008

By:

George Lucier, Chairman

ATTEST:

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