

PLANNING & ZONING REVIEW NOTES

VII. B.

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**SUBJECT:**

Request by **Belmeade Farms, LLC** for a conditional use permit for a cemetery and memorial gardens area as well as associated and ancillary structures and uses located on approximately 194 acres, Center Township.

**ATTACHMENTS:**

*The following was submitted at the October 7, 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. Additional buffer comparison map
4. Appearance Commission recommendations
5. NCDOT commercial driveway permit extension
6. Neighborhood Compatibility Study dated November 17, 2008
7. Traffic assessment by Ramey Kemp & Associates dated November 17, 2008
8. Staff findings of December 15, 2008.

**INTRODUCTION & BACKGROUND:**

A quasi-judicial public hearing was held on this request November 17, 2008. No one spoke in opposition of the request. Attorney Nick Robinson represented the applicants.

The conditional use permit request cannot be approved unless, in this case, the request for conditional use rezoning of the property has been recommended for approval.

As stated in the request for conditional use rezoning, this property received sketch design for a major subdivision in September 2006. No development of the property has taken place to date. In November 2007, the Chatham County Board of Commissioners approved zoning along the major corridors from an unzoned status to RA-40 residential/agricultural zoning. The proposed cemetery is shown to be proposed within the 1500 feet of RA-40 zoning that consists of approximately 194 acres.

**DISCUSSION & ANALYSIS:**

A recommendation of this request is based on the five findings as set out in the ordinance. They are listed as follows:

***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.

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***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** may be supported and would be a permitted use in such district should the conditional use rezoning request be approved.

It is the opinion of the planning staff **Finding #2** has not been supported. A Neighborhood Compatibility Study was conducted by Nicholas E. S. Erpedling and can be read in its entirety on the webpage. Page 3 of the study lists several aspects for consideration. Noted under the “Market Context” is the sales information of properties within a 2 ½ mile radius from this site. Page 1 of the spreadsheet report lists those properties that were sold. However, the study does not indicate the total number of properties that were or are for sale in that same radius area. It does indicate sales were about half of the previous two years with 2006 showing 16 and 2007 showing 18. The 2008 sales list eight.

The “Affect Upon Market” statement, in planning staff’s opinion, could be said about a project that had already failed as stated “from a real estate perspective, only the most poorly designed special-use properties are considered to have a potential adverse affect upon a nearby or neighboring residential property’s market value”. Planning staff does not disagree that the proposed site plans appear to be well designed and are recommended by the Chatham County Appearance Commission.

It is planning staff opinion the market study did not include comparisons to other cemeteries in Chatham County nor in other counties that may be similar in size or as a general review of sustainable business involving cemeteries.

An economic report by Miley, Gallo & Associates, LLC was included in the application materials and may be viewed on the webpage. The report shows on page 3 the start up cost for developing the site to be about \$12 million. It is expected to take about four years to complete development of the cemetery as stated on page 4 of the report. Page 5 of the report assumes that there will be about 250 burials each year once it is developed. The State of North Carolina requires a minimum of 30 acres to start a new cemetery and it allows up to 800 plots per acre. Theoretically when you remove the land areas that involve creeks, streams, wetlands, floodable areas, roads, and other structures, there are potentially about 125 acres that can be used for burial sites per the Chatham County Arcview system calculated by planning staff. 125 acres multiplied by the maximum number of plots per acre allowed by the state could be about 100,000. That number divided by 250 burials per year, as stated in the report, gives an assumed build out of 400 years.

Planning staff has contacted two other public cemeteries that are on a smaller scale than this proposal; one in Chatham County, Chatham Memorial Park and one in Randolph

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County, New Hope Memorial Gardens. The owner operator for Chatham Memorial Park advised the cemetery was started in or around 1950. The first plots were not sold until 1956. The tract is a little over 15 acres in size. Six (6) acres have been developed thus far with about 2,300 plots used and 2,500 remaining. The remaining undeveloped seven (7) acres will accommodate approximately 5,600 more plots. This property had 50 internments this year and 2,300 over the past 52 years. The owner operator for New Hope Memorial Gardens began their cemetery about 10 years ago on about 48 acres. About 11 acres have been cleared for plots but there have been no plots sold to date. The owner of Chatham Memorial Park also owns other cemeteries in other counties with one being in Durham. He stated it is located on approximately 42 acres and was an established cemetery when he purchased it dating back to the 1800's. Heritage and family history, he states, plays a big part in the growth of a cemetery. Another new cemetery in Wake County called Wake Memorial, is struggling to get up and running per Mr. Smith. For further information, you may view the entire staff findings with these two operators on the website.

Planning staff contacted the Chatham County Tax Office and was advised by the tax appraiser the residual lands, outside of burial plots, any offices or other structures not used for religious purposes, are taxed at regular market values. The unsold plots are taxed generally at a value of \$100 per plot, crypt, or niche. Once the plots are sold, they are not taxable to the individual; this takes away some of the "economic" base claimed in the application. There are approximately 521 cemeteries in Chatham County today. Out of those, 52 cemeteries are located on the same property as the church they're affiliated with.

About 21 full time jobs will be created to maintain the grounds and facility.

It is the opinion of the planning staff that **Finding #3** has been met by the application of conditions. The proposed site plan showing landscaping and renderings has received favorable comments from the Chatham County Appearance Commission and there were no concerns regarding the appearance at the public hearing. There was the concern raised about chemicals, fertilizers, pesticides, etc. The application shows on page 15 there will be no chemical agents used. However, in order to maintain the turf grasses, landscape plantings, etc. there will need to be some type of management available. This is addressed in the conditions below.

NCDOT has issued a commercial driveway permit extension approval for the use proposed. The traffic analysis provided indicates traffic should not be a concern as funeral processions are generally during off peak hours and therefore would not hinder daily traffic.

It is the opinion of planning staff that **Finding #4** may be supported. By locating Office and Institutional locations within or near the town's extra territorial jurisdictions would not be inconsistent with this objective as can be seen in the example table on page 6 of the Plan.

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Page 12 of the Plan guides development so that non-residential sites retain rural character. This project is not considered for the purposes of the Plan to be commercial development and would not be considered “strip development”. Page 17 lists several major conditions and trends in maintaining rural character. “How we perceive a place is shaped in large part by what it looks like from the road”. (pg 17, 1<sup>st</sup> paragraph of the Plan) The applicant has provided site plans that depict consistency with the objective. Page 32 of the Plan encourages Chatham County to promote the siting of economic development activities within the towns, including their ETJ areas. This request meets that goal.

This property is located within a LWA (local) watershed area. By ordinance, a property may develop up to 36% impervious surface. This project plans to have approximately 23% impervious surface.

It is the opinion of planning staff that **Finding #5** has been met by the application of conditions. The property plans to utilize individual wells for water supplies. This includes potable water for the restroom facility at the information center and non-potable water for irrigation purposes.

A soils report was conducted by S & EC which states there appears to be areas of usable soils for subsurface systems. However the calculations were conducted for 8 full time employees and not 21 as stated in the application. Information on types of systems, locations of such systems, and the additional system needs for those visiting the property for internments was not made in the report. That information should come from the local authority and has not been provided at this time.

This property is accessed directly from US 64. NCDOT has issued a commercial driveway permit extension for the proposed use.

There is a map displayed as Exhibit C for stormwater management. However, there are no plans or pre-approvals that have been given or supplied to the Planning Department. A review and permitting by the local authority for stormwater management may need to be inquired upon as well as the local erosion and sedimentation control office. These are development permitting issues and are generally sought once zoning approval is given.

It is the planning staff’s opinion this conditional use permit request be denied based on Findings #2 not being met. The need and desirability for the project has not been satisfied in the Economic Report, the Market Study, or in the application. Information obtained by staff regarding other similar uses and the availability of cemetery land for several thousand plots in Chatham County and the fact that once a plot or plots are sold the county loses property tax value, show the finding has not been met.

**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 be denied. It is requested the Planning Board review any additional conditions imposed upon the request at this time should their recommendation be for approval of the request:

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**RECOMMENDATION**

**Site Specific Conditions:**

- 1) Recommendations as stated by the Appearance Commission shall remain in effect at all times. A “Turf and Landscape Management Plan” shall be provided to the CCAC for chemical applications to include a schedule for application and best management practices for maintenance prior to actual application on vegetation, landscape, or turf grasses. The applicant shall follow the recommendations of the CCAC.
- 2) This project shall comply with the newly adopted Stormwater Management Ordinance that became effective December 2, 2008.
- 3) This project shall comply with the revised Erosion and Sedimentation Control Ordinance that became effective December 2, 2008.
- 4) The “through” access drives off US 64 used for the ingress/egress of the cemetery shall be built to the structural integrity required for NCDOT subdivision roads.

**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 Section, Stormwater Management, 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 13 of the revised Chatham County Zoning Ordinance. Any lighting or fixtures found to be non-compliant, existing or new, 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 shall be approved within 24 months of this approval or the permit becomes void; or from the time of the expiration of an 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.