



**CHATHAM COUNTY
BOARD OF COMMISSIONERS
AGENDA ABSTRACT**

ITEM NUMBER:
MEETING DATE:
2-16-09

PART A

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.

Action Requested:

See Recommendations.

Attachments:

The following was prior to the 11-17-08 Public Hearing:

1. Application packet

The following may be viewed on the Planning Department website at 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. ERB 2/10/09 Belmeade Cemetery recommendations

Submitted By:

Keith Megginson, Planning Director

Date

County Manager Review:

Charlie Horne, County Manager

Date

This abstract requires review by:

County Attorney

Date Reviewed

Finance Officer

Date Reviewed

Budget Officer

Date Reviewed

PART B

Re: *Belmeade Farms, LLC - CUP*

Introduction / Background / Previous Board Actions:

(Planning Board and Board of Commissioner comments can be viewed in bold, italicized wording)

On January 26, 2009, the Board of Commissioners postponed action on this request until February 16 to allow the Environmental Review Board to address specifics of surface water monitoring in the conditional use permit. The Environmental Review Board met February 10 and their recommendation concerning surface water monitoring and other issues is shown as attachment # 8 above. The original condition # 5 listed below in the recommendations will need to be modified to incorporate the recommendations the Board adopts. Draft recommendations will be provided by staff. The following notes were distributed for the previous meeting.

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 Planning Board met at their regularly scheduled meeting on January 6, 2009 and voted 7-2-1 to recommend approval of the request. The one abstention was a new Board member that did not wish to vote because he was not at the public hearing and this being a quasi-judicial matter. There were several concerns raised at the meetings which are addressed below.

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.

Issues for Further Discussion and 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.

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.

Re: Belmeade Farms, LLC - CUP

Issues for Further Discussion and Analysis – con't

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.

Finding #2 that a use is needed or desirable for the public convenience or welfare is one that can be argued from various points of view. The remains of humans need to be disposed of but whether there is a need for more cemetery space or a particular type of space is a different issue. The desire for additional tax base by the County is generally accepted, but whether a cemetery is the best way to improve that tax base is another matter. It is the opinion of the planning staff **Finding #2** has not been adequately 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 sales.

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. ***The Chair of the Planning Board allowed the applicants to show a DVD of the concept of their proposal. The cemetery shown was Mt. Auburn Cemetery and is located near Boston, in Cambridge; a highly populated metropolitan area. The cemetery was created in 1831 and was America’s first landscaped or garden cemetery and the video depicted monuments, walkways, trees and other vegetation. The Chair of the Board stated this was a marketing video and had no supporting information on the financial gains to the county if developed.***

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

Re: Belmeade Farms, LLC - CUP

Issues for Further Discussion and Analysis – con't

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.

The Board asked Ms. Gallo to go over the information in her report to clarify or support the number of burials each year. Ms. Gallo stated it was an average number by pulling recorded deaths from not only Chatham County but also Orange, Wake, and Durham Counties. Some Board members were not satisfied that there would be a significant number of burials from people outside of Chatham County to support a cemetery of this size and magnitude. Mr. Pat O'Neill stated about 3% of people buried in Chatham County come from within the Triangle area. Supporting documentation was not provided.

Planning staff contacted the Chatham County Tax Office and was advised by the tax appraiser that 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. *Ms. Gallo stated her report shows on page 4 there will be about 69 jobs related to the construction at the beginning with that declining as the project ends completion. This would contribute to the county's economy with lodging, food, and labor income.*

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. 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.

Issues for Further Discussion and Analysis – con't

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, 1st 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 sighting 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. *Jason Payne the S&EC representative was present and stated he had met with Fred Royal at the site on December 2, 2008. Planning staff has not received information or findings from Mr. Royal.*

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 as well as the local erosion and sedimentation control office will be needed. These are development permitting issues and are generally sought once zoning approval is given.

The Planning Board added Condition No. 5 in an effort to protect surface waters located on this property. Planning Staff would like for the Board of Commissioners to consider contacting the ERB to get specific information as to exactly what will be monitored, where it will take place and a monitoring schedule so that the condition is enforceable prior to approving this request. Conditions need to be specific, observable and measurable.

Recommendation: The Planning Department recommended denial of the conditional use permit because finding two has not been adequately supported. The Planning Board, by vote of 7-2-1, recommends approval of this request with the following 15 conditions.

Recommendation – con't

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.
- 5) Regular monitoring of surface waters shall be reviewed by the Chatham County Environmental Review Board.

Standard Site Conditions:

- 6) 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.
- 7) 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.
- 8) An “as-built” impervious surface calculation shall be submitted to the Planning Department prior to issuance of a certificate of occupancy.
- 9) Off-site improvements required by NCDOT or any other agency shall be constructed at no cost to Chatham County.
- 10) 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.

Recommendation – con't

Standard Administrative Conditions:

- 11) 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.

- 12) 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.

- 13) Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued determination with the plans and conditions listed above.

- 14) Non-Severability - If any of the above conditions is held to be invalid, this approval in its entirety shall be void.

Standard Administrative Conditions

- 15) 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.