

APPLICATION FOR
ZONING DISTRICTS
CONDITIONAL USE DISTRICTS
CONDITIONAL USE PERMITS

Chatham County Planning Department
P.O. Box 54
Pittsboro, NC 27312

Tel: 919/542-8204
Fax: 919/542-2698
Email: angela.birchett@ncmail.net

(1) Applicant Information:

Name: Contentnea Creek Development Co.

Address: 8502 - 202 Six Forks Road

Raleigh, NC 27615

Phone No: (h) _____

(w) 919-882-2339

(m) _____

Email: jonna@contentneacreek.com

(2) Landowner Information (as shown on deed)

Name: Contentnea Creek Development Co.

Address 8502 - 202 Six Forks Road

Raleigh NC 27615

Phone No: (h) _____

(w) 919-882-2339

(m) _____

Email: jonna@contentneacreek.com

(3) Property Identification:

911 Address: 739 Hatley Road

New Hope Township

S.R. Name: Hatley Road

S.R. Number: NCSR 1714

Township: New Hope

Acres: 130.48

Flood map #: 075B & 150B (07/16/91)

Flood Map # 3710977300J

Flood Zone NO

PARCEL# 17357:82822:82823

Parcel # 9772-79-4220.000; 9272-89-2400.00;

9272-89-4443.00

Deed Book 977 Page 0471 Yr. _____

Deed Book 2005 Page 0261

Current Zoning District: Conditional Use RA - 90

Watershed District: WS-IV PA

(4) Requested Zoning District, Conditional Use District, OR Conditional Use Permit:

Applicant requests: AN AMENDMENT TO THE CONDITIONAL USE PERMIT FOR THE CONDITIONAL USE ZONING DISTRICT, CU-RA-90

(5) Direction to property:

The property is located on the north side of Hatley Road, S.R. 1714, east of Mt. Gilend Church Road, across from the intersection with Jordan Drive.

(6) Attach the following, if requesting a zoning map amendment.

- ☒ List of names and addresses of current adjoining property owners (see Adjacent Landowners form)
☐ Written legal description
☐ Map of the property at a scale of not less than 1 inch equals 200 feet
☐ Explanation of request addressing applicable portions of Section 17.31 of the Chatham County Zoning Ordinance

(7) Attach Submission Materials Checklist Information (see Submission Materials Checklist form)
N/A AT THIS TIME

I hereby certify that I am the owner or authorized agent of said property and that the information provided is complete and the statements given are true to the best of my knowledge.

Jonna Bircher, on behalf of Contentnea Creek Development Co.

Signature

Date

The owner must sign the following if someone other than the owner is making the application.

I hereby certify that _____ is an authorized agent for said property and is permitted by me to file this application.

Signature

Date

Adjacent Landowners (property owners across a public or private road, easement, or waterway are considered adjacent landowners)

Legal notices are mailed to these owners, please type or write neatly.

- | | |
|---|---|
| 1 Phillip W. Corn
PO Box 1002
Cary, NC 27512
17416 | 10 Raymond H. Greenlaw, Jr.
2 Jordan Drive
Pittsboro, NC 27312
17406 |
| 2 Phillip W. Corn
PO Box 1002
Cary, NC 27512
70260 | 11 Jerry C. Barnes
1 Jordan Woods
Pittsboro, NC 27312
60475 |
| 3 Michael Glenn & Gigi Davidson ETUX
7105 Eaidridge Drive
Apex, NC 27502
17288 | 12 Holt W. Seymour & Rheta W. Holt
Family Ltd Partnership
6325 N. Ewing Street
Indianapolis, IN 46220
17294 |
| 4 Reginald M. Wright &
Pearl H. Wright ETUX
4211 Tryon Road
Raleigh, NC 27606
79891 | 13 Bonnie Jones Ammons
707 Hugo Street
Durham, NC 27004
17289 |
| 5 Balen Tonya E ETUX
Charles Anthony
1301 Red Twig Rd.
Apex, NC 27502
79890 | 14 Todd J. Yanders &
Suzanne M. Yanders ETUX
70 Roach Ranch Road
Pittsboro, NC 27812
76281 |
| 6 Brian T. & Mia A. Hrabee ETUX
1440 Grappenhall Drive
Apex, NC 27502
79889 | 15 Haw River Baptist Church Inc. ETUX
1099 Mt. Gilead Church Road
Pittsboro, NC 27312
17440 |
| 7 John W. & Milota R. Salay
28 Creekside Drive
Pittsboro, NC 27312
17418 | 16 Haw River Baptist Church Inc. ETUX
1099 Mt. Gilead Church Road
Pittsboro, NC 27312
17441 |
| 8 Brian D. & Linda A. Johnson
PO Box 2865
Chapel Hill, NC 27514
17423 | 17 Chatham Land &
Timber Management LLC
981 Old Graham Road
Pittsboro, NC 27312
17425 |
| 9 Brian D. & Linda A. Johnson
PO Box 2865
Chapel Hill, NC 27514
68381 | |

BLANCHARD, MILLER, LEWIS & STYERS, P. A.

L A W Y E R S

PHILIP R. MILLER, III*

E. HARDY LEWIS

M. GRAY STYERS, JR.*

KAREN M. KEMERAIT

STEPHON J. BOWENS

CHARLES F. BLANCHARD

DEBORAH K. ROSS*

OF COUNSEL

1117 HILLSBOROUGH STREET
RALEIGH, NORTH CAROLINA 27603

TELEPHONE (919) 755-3993

FACSIMILE (919) 755-3994

WEBSITE: www.bmlslaw.com

*CERTIFIED SUPERIOR COURT MEDIATORS

WRITER'S DIRECT

TELEPHONE (919) 747-8102

E-MAIL: kkemerait@bmlslaw.com

February 12, 2009

Ms. Angela Birchett
Chatham County Planning Department
80-A East Street
Post Office Box 54
Pittsboro, North Carolina 27312

Re: Cooper Subdivision – Request for Amendments to the Conditional Use Permit

Dear Ms. Birchett:

Our firm represents Contentnea Creek Development Co., and we are requesting amendments to two Stipulations of the Conditional Use Permit ("CUP") pursuant to Section 17.4 of the Chatham County Zoning Ordinance. We are requesting amendments to Stipulations 4 and 10 of the CUP so that the design for the Cooper subdivision may be more environmentally sensitive in that Contentnea will not have to provide an unnecessary creek crossing of Parkers Creek.

I. Background

The Chatham County Board of Commissioners approved the CUP for the originally proposed 63-lot Cooper subdivision on October 16, 2006.¹ The approved CUP contains seventeen Stipulations Specific to the Application. Specifically, Stipulation 4 states:

4. Public rights-of-way shall be established and dedicated by the time of final plat approval for future public street access and utility connections to adjacent property to the west, currently owned by either Chatham Land & Timber and to the north, currently owned by Philip W. Corn. The applicant has the option to extend right-of-way and utility connections to the eastern property currently owned by Michael Davidson from the north side of Parker's Creek. Only one (1) stream/creek crossing across Parker's Creek shall be permitted for road access. Authorization from the

¹ The subdivision now has seventeen fewer lots than was originally planned when the CUP was approved.

Corps of Engineers shall be required and a copy given to the Planning Department for all stream/creek crossing.

Stipulation 10 states that "[t]he site shall be developed substantially in accordance with the plans submitted as part of the application."

As further background, development and construction of the Cooper subdivision project has been planned in three phases. At the time of preliminary plat approval for Phase 1, Contentnea voluntarily agreed to perform an Environmental Impact Analysis ("EIA") prior to submitting the preliminary plats for Phases 2 and 3. (Contentnea's agreement to perform an EIA was not made a condition of preliminary plat approval for Phase 1.) Contentnea has in fact performed an EIA, and the EIA considers the design for all three phases of the project. As a result of the EIA, Contentnea has redesigned the plans for the subdivision to avoid a substantial number of impacts to natural resources by providing substantially fewer lots (*i.e.*, eliminating seventeen lots from the subdivision) and redesigning the road layout to eliminate five stream crossings and to work better with the natural topography to minimize the amount of cut and fill required for construction. As a result of eliminating lots and redesigning the road layout, Contentnea was able to eliminate the crossing of Parkers Creek and thereby minimize impacts to Parkers Creek by replacing the road crossing with a shared driveway for two lots. It was also possible for Contentnea to eliminate the crossing of Parkers Creek since it is no longer necessary to cross the creek to provide a road stub out to the Corn property since the approved roadway plan for the Parkers Springs subdivision provides access to the Corn property.

II. Reasons for the amendment to Stipulation 4.

Contentnea is requesting authorization to amend Stipulation 4 to eliminate the requirement that a right-of-way must be provided to the Corn property because (1) the right-of-way dedication to the Corn property is no longer necessary since right-of-way access to the Corn property is being provided by the adjacent Parkers Springs subdivision, and (2) the Cooper subdivision will be a more environmentally sensitive project if the creek crossing that enables the right-of-way to the Corn property is eliminated. Specifically, Contentnea is requesting that Stipulation 4 be revised as follows to remove the requirement that a public right-of-way dedication must be made to the Corn property:

4. Public rights-of-way shall be established and dedicated by the time of final plat approval for future public street access and utility connections to adjacent property to the west, currently owned by Chatham Land & Timber. The applicant has the option to extend right-of-way and utility connections to the eastern property currently owned by Michael Davidson from the north side of Parker's Creek. Only one (1) stream/creek crossing across Parker's Creek shall be permitted for road access. Authorization from the Corps of Engineers shall be required and a copy given to the Planning Department for all stream/creek crossing.

In support of our request, we are providing emails from Fred Royal and Chris Hopper, the County's EA Peer Review consultant, as Exhibit "1". In regard to Contentnea's plans to eliminate the crossing of Parkers Creek, Mr. Hopper stated:

. . . I believe it [the elimination of the creek crossing] will result in substantially less environmental impact. I am very pleased to see that the applicant is pursuing this change. Eliminating the unnecessary crossing of Parkers Creek will minimize the impacts to the floodplain, migration corridors, soils, topography, riparian forests, significant natural heritage areas, aquatic resources, and water quality. Particularly with a crossing proposed upstream, and the connectivity it will provide there is no logical reason to retain this project's crossing.

Similarly, Mr. Royal stated: "I agree that avoiding any stream crossing where possible constitutes good and valid environmental impact avoidance I believe this crossing/easement removal is a valid option for the CUP modification."

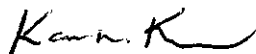
In light of the facts that the public right-of-way to the Corn property is no longer necessary due to access from the Parkers Springs subdivision and because eliminating the stream crossing will minimize impact to Parkers Creek, we request that Stipulation 4 be modified to delete the requirement that right-of-way to the Corn property must be provided. Significantly, based upon the information provided by Mr. Royal and Mr. Hopper, the purpose and intent of the Zoning Ordinance will be served, public safety and welfare will be secured, and substantial justice will be done in allowing the modification to Stipulation 4 of the CUP.

III. Reasons for the amendment to Stipulation 10.

For many of the same reasons stated above, we are also requesting that Stipulation 10 be amended. Since the design of the subdivision has been substantially changed (due to many design changes, including eliminating seventeen lots and resigning the road layout to eliminate five stream crossings), the site should not be developed substantially in accordance with the plans submitted with the CUP application. Therefore, we are requesting that Stipulation 10 be amended to state that : [t]he site shall be developed substantially in accordance with the plans submitted as part of the request for amendments to the Conditional Use Permit". Again, as stated above, the purpose and intent of the Zoning Ordinance will be served, public safety and welfare will be secured, and substantial justice will be done in allowing the modification to the Stipulation 10 of the CUP. (The revised plans are provided with the Application to Amend the Conditional Use Permit.)

I would appreciate it if these requests could be placed on the next agenda. Please let me know if you have any questions about our requests

Sincerely,



Karen M. Kemerait

Enclosures

Cc: Ms. Lynn Richardson
Ms. Jonna Birtcher
Mr. John Harris
Ms. Jennifer Burdette



Karen Kemerait

From: Jennifer Burdette [jburdetteblc@bellsouth.net]
Sent: Monday, January 26, 2009 1:35 PM
To: Karen Kemerait
Subject: FW: Cooper S/D CU Revision

From: Fred Royal [mailto:fred.royal@chathamnc.org]
Sent: Monday, January 26, 2009 12:39 PM
To: Jennifer Burdette
Cc: Chris Hopper
Subject: RE: Cooper S/D CU Revision

Jennifer,

Please see the below response from our EA Peer Review consultant on this issue. I agree that avoiding any stream crossing where possible constitutes good and valid environmental impact avoidance. In this case, if indeed the other proposed crossing will provide the intended transportation connectivity between parcels, I believe this crossing/easement removal is a valid option for the CUP modification request. Please let me know how your request goes and if I can assist with this matter further.

Fred

From: Chris Hopper [mailto:chopper@rjgaCarolina.com]
Sent: Monday, January 26, 2009 12:28 PM
To: Fred Royal
Subject: RE: Cooper S/D CU Revision

Hello Fred,

Thanks for CC'ing me on this request, as I believe it will result in substantially less environmental impact. I am very pleased to see the applicant is pursuing this change. Eliminating the unnecessary crossing of Parkers Creek will minimize impacts to the floodplain, migration corridors, soils, topography, riparian forests, significant natural heritage areas, aquatic resources, and water quality. Particularly with a crossing proposed upstream, and the connectivity it will provide there is no logical reason to retain this project's crossing. If you would like me to prepare a letter to this effect, I would be most happy to do so.

Thanks,

Chris Hopper, Biologist
Robert J. Goldstein and Associates, Inc.
1221 Corporation Parkway, Suite 100
Raleigh, North Carolina 27610
(919) 872-1174; fax (919) 872-9214
chopper@rjgaCarolina.com

1/26/2009