

PLANNING & ZONING REVIEW NOTES

V. A.

SUBJECT:

A request by Contentnea Creek Development Co. for an amendment to the conditional use permit for **Cooper Subdivision** on a revision to Condition No. 4 and Condition No. 10 on property located at 739 Hatley Road, Parcel No. 17357; 82822; 82823, on approximately 130 acres, New Hope Township.

ATTACHMENTS:

The following was submitted at the February 3, 2009 Planning Board meeting:

1. Application packet

The following may be viewed on the Planning Department website at www.chathamnc.org under Rezoning & Subdivision Cases, 2009:

2. Original conditions of the conditional use permit
3. Preliminary plat approval Phase Two
4. Revision to Development Schedule 5/19/2008

INTRODUCTION & BACKGROUND:

A quasi-judicial public hearing was held on this request on March 16, 2009. No one spoke in opposition of the conditional use permit revision request. Karen Kemerait presented the request. The developer, Jonna Birtcher was also available. Mr. Reginald Wright, owner of Lot 4 on Creekstone Drive, Parcel No. 79891, spoke in favor of the changes.

The conditional use permit was originally approved October 16, 2006. It was to allow for 63 single family subdivision lots. Approved conditions are as follows:

1. A seventy-five (75) foot “undisturbed” buffer, with the exception of the removal of existing vegetation needed for utility easements, road interconnections, or necessary septic fields with acceptable soils, shall be maintained around the entire perimeter of the development. Should there be areas of little or no vegetation to act as an adequate buffer, the owner/developer shall install such vegetation at the next optimal planting season and shall be complete before the first certificate of occupancy is approved.
2. A one hundred (100) foot undisturbed buffer shall be maintained by conservation easement on each side of Parker’s Creek at all times, except as required for access of public dedicated right of way and utility crossings.
3. The owner/developer shall provide extension and installation of the Chatham County Water System to this property and provide easement access to adjacent properties for future connection to the water system.

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

5. The state maintained portion of Hatley Road is to be extended to the corner of Michael Davidson's southwestern property corner. This will eliminate the need for a second creek crossing, thus reducing unnecessary pollutants into or near the stream.

6. All lighting shall meet the requirements of the Chatham County "Draft" Lighting Ordinance. A lighting plan shall be submitted and approved by this office prior to the issuance of the first building permit.

7. Signage shall comply with the Chatham County Zoning Ordinance specifications. Signage is allowed at the entrance of the development on Hatley Road.

8. Permanent storm water control measures shall be designed and installed to detain the two (2) year twenty-four (24) hour storm if the total impervious surface area for the project including roads exceeds ten percent (10%).

9. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Erosion Control etc.) shall be obtained and copies submitted to the Planning Department prior to issuance of the first building permit.

10. Site Plan. The site shall be developed substantially in accordance with the plans submitted as part of the application.

11. Erosion Control. If applicable, an erosion and sedimentation control plan shall be approved by the Chatham County Soil Erosion and Sedimentation Control Office and submitted to the Planning Department prior to the issuance of a Zoning Determination Permit.

12. Silt Control. The applicant shall take appropriate measures to prevent and remove the deposit of wet or dry silt on adjacent paved roadways.

13. 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

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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.

14. Fees. Applicant 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, building inspection, recreation and educational impact fees established from time to time.

15. Continued Validity. The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditions listed above.

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

17. 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.

DISCUSSION & ANALYSIS:

At the time the project received preliminary plat approval for Phase 1, the developer agreed to have an Environmental Impact Analysis (EIA) completed, which was not a requirement at the time of their approval.

As a result of the EIA, the developer wishes to redesign the site plan to substantially reduce the number of possible impacts to natural resources. In doing so, they have reduced the total number of lots by seventeen (17) and redesigned the road layout so that five (5) stream crossings are illuminated. There will no longer be a crossing over Parker's Creek. This allows for a shared driveway between two (2) lots and no longer supplies access to the Corn property to the north because access was granted through a roadway plan for the proposed Parker Springs subdivision. Until which time the Parker Springs subdivision is built, Mr. Corn has access to his property via a pre 1975 road bed.

The developer and applicant have had correspondence with Fred Royal, Environmental Resources Director and Chris Hopper, Biologist for Robert J Goldstein & Associates Inc. supporting the changes to the site. This correspondence can be viewed under Exhibit 1 of the application materials.

As a result of the proposed changes, the overall lot size will increase to three (3) acres instead of two (2) acres and the impervious surface coverage will be reduced to 8% per Ms. Kemerait. The project will still be served by the county water system. The roadway design changes and lot configuration changes will be discussed during the preliminary plat request for Phases Two and Three.

It is the recommendation of the Planning staff that this request be approved. There is a decrease in creek/stream crossing that will better protect those water resources and ecosystems. The reduction in the number of lots allows for larger size lots to be created which in turns reduces the amount of impervious surface.

RECOMMENDATION:

It is the recommendation of the Planning staff that this revision request be approved. The Planning Board has up to three meetings to make a recommendation to the Board of Commissioners on this request. The proposed wording to condition # 4 and # 10 are shown below as follows:

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.

10. Site Plan. The site shall be developed substantially in accordance with the plans revised and dated 3/18/09.