



**CHATHAM COUNTY
BOARD OF COMMISSIONERS
AGENDA ABSTRACT**

ITEM NUMBER:
MEETING DATE:
1-19-10

PART A

Subject:

Request by **Kenneth Hoyle and Floyd Coleman** for a conditional use permit on Parcel 2759, located at 9555 US 15-501N, Baldwin Township, for multiple uses as stated in the application and as allowed in the Table of Permitted Uses for the Neighborhood Business District.

Action Requested: See Recommendations.

Attachments:

***The following was submitted prior to November 16, 2009
Public Hearing:***
1. Application packet

Submitted By:

Jason Sullivan, Acting 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: Hoyle – Coleman CUP

Introduction / Background / Previous Board Actions: *(Planning Board meeting discussions can be viewed in bold, italicized wording)*

A quasi-judicial public hearing was held on this request November 16, 2009. No one spoke in opposition of the conditional use permit. The conditional use permit request cannot be approved unless the request for conditional use rezoning of the property has been recommended for approval.

The Planning Board met at their regularly scheduled meeting on December 1, 2009. There were concerns raised during the discussion which can be viewed in bold below under the respective findings.

The Planning Board voted 7-3 to approve the conditional use permit request.

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.

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, provided the conditional use rezoning district is approved. The applicant has requested that the following uses **not** be allowed as permitted, from the Table of Permitted Uses, in this application and any subsequent approval of the conditional use permit. They are:

Amusement Enterprises; Appliance Sales & Service; Automobile Service Station; Blacksmith or Horseshoeing Shops; Boarding Kennels Boat Storage Facility; Breeding Kennels; Private Recreation Camps & Grounds; Temporary Construction Trailers or Structures.

Planning staff recommends reducing the number of uses requested by the applicant for the property and that they be limited to those that are "in kind" from the Table of Permitted uses which includes only:

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Issues for Further Discussion and Analysis – cont.

Antique shops; Art Supply Retail Sales; Gift Shops; Interior Design Shops; Mixed Use Building; Office - business, professional and governmental; Retail stores and personal service shops similar to those listed dealing in direct consumer and personal services; and Secretarial and job service offices.

Currently there is an approved Conditional Use Permit that allows an antique shop only. The applicant is seeking some additional uses for flexibility with the property.

There was a concern for allowing several uses to be approved for the property versus having only one to cover what the property is currently used for. It was explained that staff pulled items from the list of permitted uses that possibly would not create a need to change the site and those that would keep in the harmony of the area. The applicants agreed to staff's changes.

It is the opinion of the planning staff **Finding #2** may be supported. Need and desirability may be seen with a business that has thrived for over 26 years. There are three other antique shops in downtown Pittsboro and others in the Chapel Hill/Carrboro area. This business is built on those locations as well as other areas throughout the country per the applicant.

There are no changes needed for public improvements to the site. The current tax value on this property is \$307,863. The applicant anticipates an increase with the growth and development of the Briar Chapel community to the north, south and west of this property. At present, there would be no change in employment opportunities which will remain with the occupants.

It was stated the need was on the applicant and not the community at large so the property could have better marketing potential.

It is the opinion of the planning staff that **Finding #3** may be supported. There is no increase in the need for emergency services and traffic is not anticipated to increase with the continued use of the property. NCDOT has issued the appropriate driveway permits.

The property currently has a perimeter of varying landscaping. The Technical Review Committee had no comments or changes recommended to this site plan. Because there were no site plan changes recommended, the applicants were not required to meet with the Chatham County Appearance Commission. Should the site plan change, proper submissions will be required as is reflected in the below condition.

The property currently utilizes one sign for advertisement purposes and will continue to do so. The sign and any lighting meet the current requirements as set out in the Chatham County Zoning Ordinance.

It is the opinion of planning staff that **Finding #4** may be supported. Page 2 and 34 of the Plan specifically list this area as either a Compact Community Corridor or an

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Issues for Further Discussion and Analysis – cont.

Economic Development Center location. In keeping with uniformity with rezonings approved to adjacent properties, a rezoning from residential to Conditional Use Neighborhood Business is applicable. Both adjacent properties have non-residential zoning as well as the properties on each corner of the intersection across US 15-501 N for a mini warehouse storage and veterinary office. The intersection where the existing business is located is the main entrance into Briar Chapel; a compact community approved in 2005.

It was discussed to leave the property as is or to approve the conditional use zoning change but to only allow the one use currently being operated. It was explained by staff that the zoning is currently residential and all surrounding properties have non-residential, conditional use zoning with the exception of the parcel directly adjacent to the north now owned by Briar Chapel, which has B-1 Business zoning. The Planning voted 8-2 to approve Conditional Use Neighborhood Business.

This business has been operating for the past 26 years. The Plan encourages on Page 27 that the continuation of existing commercial be supported and that development sustains the rural character and environmental quality. The applicants have stated they plan to continue to operate this property as they have for the past 26 years but are looking at options to allow for better marketability of the property. The property uses a renovated, two-story house with landscaping, and additional out buildings that also better serve the rural character as stated in the Plan.

It is the opinion of planning staff that **Finding #5** may be supported and may require additional conditions to be added, which may be seen below in the recommendations. The property currently uses an on-site, existing well. Should the need arise county water is also available to the property. An on-site septic system is currently being used. This may require an expansion for some of the uses being requested in this permit. Before uses will be allowed, the appropriate agencies must authorize any use of such systems or services as well.

There is no need for stormwater management at this time since no changes to the existing site are requested. If and when the site is proposed for changes, then the appropriate agencies will be notified as part of the revision process. The current impervious surface allowed is 36% for the WSIV-PA designation. Currently the site is well below the maximum allowance. There is one "wet weather" pond on the property that will be reviewed should a revision to the site be proposed. Riparian buffers are not required at this time because this is not a subdivision of land. However, a condition will be placed to ensure inspection and permitting, if required, for any redevelopment of the property.

It is the recommendation of the Planning staff to approve this conditional use permit as outlined and stating that all five findings have been met. Please see any below conditions that may affect future use/s of this property.

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Issues for Further Discussion and Analysis – cont.

Several questions were raised about the potential for the property design and layout to be changed or altered from its current state. Planning staff advised the board that if any changes were needed or required, such as the removal of existing vegetation, any land disturbance or clearing, or additions would first be provided to the Planning staff for review and then possibly would require a revision to the conditional use permit.

Recommendation: It is the recommendation of the Planning staff and Planning Board that this application be approved **by vote of 7-3**. It is requested the Board of Commissioners review any additional conditions imposed upon the request at this time should their recommendation be for approval of the request:

Site Specific Conditions:

1. The uses permitted with this conditional use permit application are limited to those of:
 - a. Antique shops; Art Supply Retail Sales; Gift Shops; Interior Design Shops; Mixed Use Building; Office - business, professional and governmental; Retail stores and personal service shops similar to those listed dealing in direct consumer and personal services; and Secretarial and job service offices.

Should any additional uses not specifically noted be desired, a revision to this conditional use permit will be required.

2. The proposed use of the property shall be consistent with the site plan included with the application and any changes shall require an amendment to the conditional use permit.

Standard Site Conditions:

3. All parts of the application, notes, and approved recommendations as provided for and/or conditioned, are considered to be the standards as set forth and shall comply as stated. Changes or variations must be approved through the Planning Division or other approving board before any such changes can take place.
4. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Erosion & Sedimentation Control, Environmental Health Division, Stormwater Management, etc.) shall be obtained, if required, and copies submitted to the Planning Division prior to the issuance of the first building permit.

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Standard Administrative Conditions:

5. 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..
6. 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.
7. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued determination with the plans and conditions listed above.
8. Non-Severability - If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
9. 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.