

**COUNTY COMMISSIONERS**

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A RESOLUTION APPROVING AN APPLICATION FOR A CONDITIONAL USE PERMIT REQUEST BY Mark Moldenhauer

WHEREAS, Mark Moldenhauer has applied to Chatham County for a conditional use permit on Parcel No. 67592 located at 1971 Lystra Rd., Williams Township, on approximately 1 acre out of a 5.032 acre tract, for a mulching operation and;

WHEREAS, the Chatham County Board of Commissioners having considered all of the evidence in the whole record and based upon the competent, substantial and material evidence in the record, including, without limitation, the Applicant's written materials, all of which are incorporated herein by reference, hereby finds as follows:

1. The use/s requested are among those listed as eligible uses in the district in which the subject property is located or is to be located. In the list of Permitted Uses within the Chatham County Zoning Ordinance, a mulching operation is permitted within the light industrial district.
2. The requested conditional use permit is either essential or desirable for the public convenience or welfare because, among other reasons, the applicant has operated his landscaping and grading business from this property for over 20 years. Mr. Moldenhauer will be recycling the material from his job sites in an effort to provide a more sustainable operation. This site will not be open to the public for retail/wholesale use and the site is limited to no more than 6,000 cubic yards to be generated at any one time.
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. The operation will operate Monday through Friday, day use hours only with no operations past 7pm, and with no operations on Saturday and Sunday. Noise generated from the site will consist of vehicles such as dump trucks with backup beepers, heavy equipment to move debris during the filling of the pit area that is not part of this application, and the grinding machine which will not be operated daily.
4. The requested permit is consistent with the objectives of the Land Development Plan by, among other things, encouraging a mix of development by guiding balanced growth to suitable locations while maintaining rural character. The site has been used for non-residential purposes for over 20 years. Mr. Moldenhauer previously operated a land clearing and inert debris landfill (LCID) which has been closed. Mr. Moldenhauer continues to operate a landscaping and grading business where he would bring the debris to his site and mulch it to reuse on his other

job sites. The property has vegetative, natural buffers on three sides, two to adjacent properties and one to the roadway. The operations are also outside any areas required to be protected by county regulations as noted in the application record.

5. Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary facilities have been or are being provided through the proposal consistent with the County's plans, policies and regulations and confirmed through any additional conditions placed on its approval as seen below. The property currently is not served by water or septic. County water will be supplied to the site in order to operate a modular restroom facility with a re-circulating sand filter wastewater system which will be permitted by the state. Stormwater, BMP, measures will be installed to further protect any adjacent properties and/or streams. Additional conditions are as follows:

NOW, THEREFORE, BE IT RESOLVED BY THE CHATHAM COUNTY BOARD OF COMMISSIONERS, as follows:

That a Conditional Use Permit be, and it hereby is, approved for the reasons hereinabove stated subject to the additional stipulations and conditions set forth hereinafter; and

BE IT RESOLVED FURTHER, that the Chatham County Board of Commissioners hereby approves the application for the conditional use permit in accordance with the plan submitted by the Applicant, Mark Moldenhauer, and incorporated herein by reference with specific conditions as listed below;

Site Specific Conditions

1. The 180 day operational limit included in the application materials shall not apply.
2. The mulching operation shall not be open to the public as a retail/wholesale operation.
3. There shall be no operation of the grinding machine after 7pm Monday through Friday and no operations on Saturday and Sunday.
4. The property shall go through the subdivision process to remove the non-building status.

Standard Site Conditions

5. Signage, parking, and lighting shall conform to the Chatham County Zoning Ordinance.
6. The application 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 Department or other approving board before any such changes can take place.
7. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Erosion & Sedimentation Control, Environmental Health Division, Storm water Management, etc.) shall be obtained, if required, and copies submitted to the Planning Department prior to the initiation of the mulching operation.

Standard Administrative Conditions

8. 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.
9. 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.
10. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued determination with the plans and conditions listed above.
11. Non-Severability - If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
12. 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.

BE IT FURTHER RESOLVED, that the Board of Commissioners of the County of Chatham hereby approves the application for a conditional use permit in accordance with the plans and conditions listed above.

Adopted this, the 6th day of September 2011

By: _____

Brian Bock, Chair
Chatham County Board of Commissioners

ATTEST:

Sandra B. Sublett, CMC, NCCC, Clerk to the Board
Chatham County Board of Commissioners