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A RESOLUTION APPROVING A REVISION TO A CONDITIONAL USE PERMIT REQUEST

BY Westfall Associates, LLC and Charles and Janet Myers

WHEREAS, Westfall Associates, LLC and Charles and Janet Myers has applied to Chatham County for a revision to an existing conditional use permit on Parcel No. 20092 and other multiple parcels that make up the Westfall Subdivision (formerly Booth Mountain), located off Lystra Rd. and Jack Bennett Rd., Williams Township, for a conditional use permit (CUP) amendment to add approximately 14.071 acres and 62 lots and decreasing the overall footprint by at least 23 acres through a redesign of the lots and lot sizes, and;

WHEREAS, the Chatham County Board of Commissioners has adopted a statement describing that its action is consistent with the adopted Land Use Plan and explaining why it considers the action to be reasonable and in the public interest, all in accordance with N.C.G.S. Section 153A-341;

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. Planned residential developments continue to be a conditional use within the R-1 Residentially zoned district provided the standards can be met.
2. The requested revision to the conditional use permit is either essential or desirable for the public convenience or welfare because, among other reasons, It was determined in 2005 this use was needed and subsequently approved. When development began with the recording of the first 94 lots is when the housing market declined. The previous owners filed bankruptcy and abandoned the site. The current owners purchased the property and have begun taking measures to redesign the site to make it more marketable to ensure a sound development. Construction has also resumed to complete several roads and the wastewater system in the development, as well as the construction of several homes. Additional open space; new housing options to reach a larger market; and the addition of a walking trail, playgrounds, and an amenity area are being provided.

In addition to other evidence of need and desirability, the record reflects that the amended project will have a net positive economic impact on Chatham County in the form of increasing the anticipated residential tax base of the project by approximately \$25,000,000.

3. The requested revision to the 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. Among other things, the record reflects that the applicant is requesting an increase in the total number of lots from 180 to 242. The net land area computation provided in the application shows that a total of 262 units are allowed. An additional 14.071 acres is also being added to the overall development, which will increase the overall site size to 308.4 acres. By redesigning some areas, a higher density development footprint will be created as seen in Section B that will increase open space from 108.81 acres to 143.95 acres. In addition, the revised site plan includes buffers and no build setbacks ranging from a minimum of fifty feet up to two hundred feet in some cases around the perimeter of the project, protecting the adjoining large lot subdivision properties. The competent, substantial and material evidence in the record from Applicants' traffic engineer reflects that the amended project, taking into account the entrance road widenings, will impose no undue burden on the roadway infrastructure.

4. The requested revision to the permit is consistent with the objectives of the Land Development Plan by, The development will continue to meet the Land Conservation and Development Plan as previously determined through its approval. The protection of surface waters may be better protected by the revised site layout as submitted. There will be more open space between the lot boundaries and the setback areas of the surface water features. There is also an increase in open space and a decrease in overall impervious surface than the currently approved site plan. The developer plans to increase the use of reclaimed water to be used for spray irrigation purposes as encouraged on Page 45 of the Plan. In addition, the Board has set forth its conclusions regarding the consistency of the amended project with the objectives of the Land Use Plan in its Resolution Adopting a Consistency Statement, which Resolution is incorporated herein.

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. In addition to other evidence in the record, Chatham County will continue to provide water for the development and Aqua NC will maintain the wastewater treatment facility. Stormwater and erosion and sedimentation control measures will be permitted and comply with current regulations. NCDOT has approved the subdivision road connections to the existing NCDOT roads and improvements for two of the three have been completed. The developer is working with NCDOT on the third entrance with NCDOT providing Spot Safety funds to further improve a section of Jack Bennett Road.

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

That a revision to an existing 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 revision to the existing conditional use permit in accordance with the plan submitted by the Applicant, Westfall Associates, LLC and Charles and Janet Myers, and incorporated herein by reference with specific conditions as listed below;

Site Specific Conditions

1. Buffers and setbacks shall be as set forth on the Perimeter Buffer/Development Setback Exhibit approved herewith.
2. With regard to the “no-build” areas (between the rear lot line and the edge of the building area) as shown on the submitted site plan, a restriction will be put in place that will allow homeowners to clear such areas only with hand tools (effectively limited clearing to underbrush and removal of dead vegetation) and disallowing grading.
3. The wastewater treatment plant will be a concrete facility with the blowers being enclosed. The developer will install an aerator in the wastewater treatment plant storage pond. Further, the developer shall use odorphos or other equivalent chemical agent, a chemical addition, at the pump station in order to minimize odors.
4. The roads in the development will be private, but will be built to the NCDOT standard. Private roads may be gated, provided access is made available to emergency vehicles.
5. The developer has created an easement for a trail from the village area to the school site as shown on Plat Slide 2008-97. The installation of such trail will be contingent upon agreement by the Chatham County Board of Education.
6. The developer shall erect signs along the mutual boundary with the US Army Corps of Engineers. Said signs shall be placed at sufficient intervals to be visible from a distance of 75 feet. The signs shall provide warning of adjacent Game Lands which allow archery hunting only at this time. On one side the signs shall warn of hunting in the area and on the other side warn of residential development nearby. Said signs shall be of a size and height to be easily seen and of all weather materials such as metal painted traffic control signs. Said signs shall be posted prior to final plat approval. The final plat shall display a note disclosing adjacent Game Lands which allow archery hunting only at this time.
7. All street lighting shall comply with the Chatham County Zoning Ordinance, Section 13 to minimize light pollution and light trespass. The development’s covenants shall also require residential lighting to meet said provisions.
8. The developer and Aqua NC shall negotiate with the Chatham County School Administration to determine if an agreement can be reached regarding school site wastewater treatment and storage.

Standard Site Conditions

9. The application, standards and adopted regulations of the applicable ordinances and policies, and the 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.
10. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Erosion & Sedimentation Control, Environmental Health Division, Stormwater Management, Building Inspections, Fire Marshal, etc.) shall be

obtained, if required, and copies submitted to the Planning Department prior to the initiation of the operation/business.

Standard Administrative Conditions:

11. 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.
12. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditions listed above.
13. Non-Severability - If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
14. 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 18th day of February, 2013

By: _____

Walter Petty, Chair
Chatham County Board of Commissioners

ATTEST:

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