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Angela Birchett, CZO
Zoning Administrator
Chatham County Planning Department
Post Office Box 54
Pittsboro, North Carolina 27312
Via Electronic and First Class Mail

Re: **THE EXTRA GARAGE STORAGE IV: COMMENTS IN OPPOSITION TO THE PROPOSED
PERMITTING, CONSTRUCTION AND OPERATION OF A .36 MILE LONG BOAT AND RV
STORAGE FACILITY IN A RESIDENTIAL NEIGHBORHOOD**

Dear Ms. Birchett:

Introduction

My name is Alan H. McConnell, and I live with my family at 1535 Tody Goodwin Road in Chatham County.

This letter is submitted in opposition to approval by Chatham County (“County”) of the proposed Extra Garage Storage IV (“Development”) by Mr. Walt Lewis (“Applicant”) along a stretch of Beaver Creek Road in eastern Chatham County located within the Jordan Lake State Recreational Area and directly abutting Jordan Lake. The address for the Development is 896 Beaver Creek Road. However, the proposed Development consists of construction of a huge building complex that runs parallel to Beaver Creek Road for .36 miles. If approved, the Development would be the third such storage facility along a short (1.1 mile) stretch of Beaver Creek Road. As such, the Development would result in over 1/2 of a mile of storage areas, the equivalent of a substantial strip mall, to be placed within a short 1 mile stretch of a scenic road, within the heart of an R-1 Residential District. The County should not approve the Development.

In order for the Development to move forward, the Applicant has to convince the County to take two significant steps:

(1) First, the location must be rezoned from R-1 Residential to the Conditional Zoning District CD-NB (Neighborhood Business). As discussed below, creating a conditional zoning district under the Chatham County Zoning Ordinance (“Ordinance”) requires the applicant to meet very high demonstrative standards regarding public notice; promotion of public health, safety and welfare; consistency with the intent and purpose of existing plans and the

Ordinance; that the change is essential or desirable for the public convenience and welfare; and that there are other circumstances, factors and reasons (presumably other than the Applicant's financial gain) that support the rezoning request. As discussed in more detail below, the Applicant's Application for Change of Zoning of Property dated February 4, 2016 ("Application"), Environmental Impact Assessment dated February 26, 2016 ("EIA"), and supplemental information fall well short of meeting these requirements.

(2) Second, the County must approve the Development as a Conditional Use within the newly rezoned district and issue a Conditional Use Permit for the use in the newly rezoned district pursuant to Section 17 of the Ordinance. Approval of such a conditional use permit will require approval by the Board of Commissioners using the quasi-judicial procedures of Section 17. Under Section 17 of the Ordinance, the Board of Commissioners must vote in favor of the Development after giving due regard to the purpose and intent of the Ordinance, ensuring that public safety and welfare will be secured, and that substantial justice will be done. Furthermore, in granting a Conditional Use Permit, the Board of Commissioners must make a finding, among others, that: "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 and welfare of the community." (Ordinance pg. 91). The Application, supporting documentation, and proposed Development, fall well short of meeting these standards as well.

In short, the Applicant is requesting that the County and neighbors of the proposed Development (many of whom relied on the County's designation of the area as R-1 when purchasing or building their homes and farms), approve and accept a two-step process to allow the construction and operation of a third storage center a massive, unnecessary and duplicative (see below) facility in the heart of their R-1 Residential neighborhood. The County should reject the proposed Development. Should the Applicant want to move forward with his (fourth) project of this nature, he should locate the Development in a properly zoned business district along US 64 in compliance with the Ordinance.

The Area is Properly Zoned R-1; If Any Changes are Made It Should be Rezoned to R-2

As presented in the Application, the proposed Development consists of a .36 mile long metal building storage facility running parallel to Beaver Creek Road. An R-1 District is described in the Ordinance as follows: "This District is primarily for low to moderate density residential development within the residential-agricultural areas of the jurisdiction" (Ordinance pg. 3). The Beaver Creek Road area is properly zoned, and the majority of current uses are clearly within the R-1 designation. County residents who own land and houses in this area have relied on the R-1 zoning designation and should not be subject to the Development. The Development would be the third such storage facility within a one mile stretch of Beaver Creek Road and is grossly inconsistent with the R-1 designation. As discussed in detail below, the Applicant has failed to meet the high standards of notice and public need under the Ordinance necessary for the County to allow such a dramatic change in this neighborhood.

Please also note that the Development is proposed to be located within the Jordan Lake State Recreational Area (EIA, page 3) and would directly abut Jordan Lake, a water supply reservoir

that serves numerous municipalities, including (we hope) more of the County in the future. One component of the Development is a fuel storage and distribution facility on-site. Approval of the Development and its fuel storage right next to Jordan Lake is ill-advised. If any rezoning of this area is undertaken, it should be rezoned to R-2 (“primarily for low density residential development to protect water supply standards” (Ordinance pg. 3)) due to its immediate adjacency to Jordan Lake.

The Development Fails to Meet the Requirements to be Located in an N-B District; If Approved, the County Would Fail to Meet the Existing Requirements for an N-B District Under the Ordinance

The Neighborhood Business District is described under the Ordinance as “meant to serve a small retail market, roughly equivalent to the trade area of a small (40,000 square foot) grocery store and limited ancillary services. No building within this district shall exceed 40,000 square feet and the cumulative building square footage shall not exceed 160,000” (Ordinance pg. 3). The proposed Development consists of two large metal buildings, each exceeding the 40,000 square feet per building limit allowed in an N-B District, totaling 95,332 square feet (EIA pg. 5). Furthermore, as stated above, the Development would be the third storage facility permitted by the County along a 1.1 mile stretch of Beaver Creek Road. Of that 1.1 mile stretch, the proposed Development is the equivalent of a commercial strip mall . . . it is .36 miles – over 1/3 of a mile – long. When combined with the two other storage facilities existing or permitted on Beaver Creek Road, this strip mall of storage extends to over 1/2 a mile.

It appears that the County may have already failed to protect the residents of this area by permitting more than 160,000 square feet of commercial development along Beaver Creek Road. The proposed Development would further perpetuate this apparent failure. At 95,332 square feet, when combined with the existing permitted commercial development in this R-1 District, the proposed Development would clearly result in the exceedance of 160,000 square feet limit for an N-B District under the Ordinance.

The Applicant Failed to Meet Numerous Demonstrative Requirements for Rezoning to a Conditional Zoning District under Section 5.3 of the Ordinance

In order to rezone the R-1 District to CD-Neighborhood Business, the Applicant is required to meet very high demonstrative standards under Section 5 of the Ordinance. As discussed below, the Applicant has grossly failed to meet the requirements of Sections 5.3 of the Ordinance in the Application and EIA.

(1) The alleged error in this Ordinance, if any, which would be remedied by the proposed amendment. (Ordinance 5.3.A.1).

In the Application, the Applicant responded “N/A” to this required demonstration. Here, I agree with the Applicant’s conclusions. There is no error in the Ordinance regarding the R-1 District zoning at this address. The area of concern is properly zoned R-1 Residential and should not be changed. As such, the Applicant’s request for rezoning should be denied.

(2) The changed or changing conditions, if any, of the area or the County generally, which make the proposed amendment reasonably necessary to the promotion of public health, safety, and general welfare. (Ordinance 5.3.A.2).

In response to this demonstration, the Application states that with the “continued growth and development in the triangle area there is a large unmet need for covered recreational vehicle and boat storage facilities” and that the Development will “provide a much needed service.” Furthermore, the EIA states that if the Development is approved, “Customers from Raleigh, Apex, Cary, Holly Springs, etc., will no longer have to drive to the lake towing boats, campers and motor homes.” (EIA pg. 2). How is expanding the already numerous number of storage facilities along Jordan Lake, to “provide a much needed service” for Wake County residents, necessary to promote the public health, safety, and general welfare of the Chatham County residents that live in the residential area of the proposed Development or, for that matter, anywhere else in Chatham County?

Well, it isn’t reasonably necessary or desirable. This is the third proposed storage facility in a 1.1 mile stretch of Beaver Creek Road, the fourth proposed by the Applicant and, by my count, it would be the 11th existing storage facility in this vicinity of Jordan Lake, with at least four others permitted but not yet built. The standard that must be met under the Ordinance is that changes made to zoning must help ensure the public health, safety and welfare of Chatham County residents. Stating that an 11th such facility in the area is “necessary” and will “provide a much needed service” is specious and self-serving. The proposed Development is certainly not “necessary” for anything other than the financial gain of the Applicant and the convenience of Wake County residents as the applicant’s own words demonstrate.

In the “Addendum to Standard #4 on Application” provided by the Applicant to Chatham County Planning (in response to concerns raised by Planning regarding the inadequacy of the Application), the Applicant provides documentation that Western Wake County is growing in population at a significant rate. There is no arguing this fact. However, population growth in Wake County and the Applicant’s commercial desire to construct more RV and boat storage around Jordan Lake, do not justify the Development in this particular location. This is the equivalent of the County allowing the construction of a 1/2 mile long strip mall in an area zoned R-1. The Applicant has stated in his documentation and in comments presented to the County Commission, that the parcel proposed for the Development does not perk. As such, it is likely that the Applicant paid far less for this property than he would have to pay for properly zoned commercial property along US 64. The County should not support the rezoning of an R-1 Residential area and approve a non-conforming conditional use in that rezoned area (to the detriment of longtime residents of the area) purely for the Applicant’s financial gain when properly zoned commercial areas are close by and available.

(3) The manner in which the proposed amendment will carry out the intent and purpose of the adopted plans or any part thereof. (Ordinance 5.3.A.3)

The applicant cannot, and therefore does not in the Application, make this demonstration. The plan for this area, as codified in the Ordinance, is for residential use. The Chatham County

Zoning Ordinance has been developed, amended, and thoroughly considered (with public input) to properly manage growth and development in Chatham County. The Ordinance allows the location of RV and boat storage facilities in properly zoned business districts, farther away from Jordan Lake. The proposed amendment to allow the Development is absolutely contrary to the intent and purpose of plans and zoning for the Beaver Creek Road area. The Applicant's statements that "recreational uses are major uses" and that "they need support facilities such as RV and Boat storage" are his opinions. Such statements of opinion do not change the fact that the proposed Development is grossly inconsistent with current plans and zoning for this area.

(4) The requested amendment is either essential or desirable for the public convenience or welfare. (Ordinance 5.3.A.4).

In response to this required demonstration, the Application merely states: "The public needs facilities such as this that are located close to the lake. Locating close to the lake increases public convenience and safety." Again, the Applicant fails to address the required demonstration by making statements of opinion. As discussed above, the County has a well-considered, comprehensive, Zoning Ordinance to properly manage, with public input, growth in Chatham County. The Ordinance provides for proper location of activities like the Development in properly zoned business districts, farther away from Jordan Lake, where they present less of a risk to water quality in the lake. There is certainly nothing "essential" and nothing "desirable" resulting from the construction of the 11th such facility in this area, further abusing an established residential area, and allowing the installation of a storage complex and marine fueling facility right next to the County's water supply reservoir.

(5) All other circumstances, factors and reasons which the applicant offers in support of proposed amendment. (Ordinance 5.3.A.5).

The application completely fails to address the increased traffic and congestion that the Development will cause on Beaver Creek Road.

In response to this requirement, the Application simply states: "This use is not a traffic generator, it only serves traffic that is already at the lake." The Applicant made a similar statement before the Board of Commissioners. This is a self-serving, undocumented, opinion that is both flatly incorrect and is contradicted by the EIA. Page 2 of the EIA includes the statement: "The Extra Garage has three other locations surrounding the Jordan Lake area. It has been in business since 2007 offering similar services at the other facilities. These facilities draw customers from Raleigh, Durham, Cary, and Apex neighborhoods. Additionally, customers from Angier, Holly Springs, Sanford, Pinehurst, and even Fayetteville utilize the TEG facilities." (Emphasis added).

If these facilities "draw customers" from all of these locations (none of which is in Chatham County) how can the Development not be a traffic generator? The proposed Development will, in fact, be a significant traffic generator, will increase and obstruct the growing traffic on Beaver Creek Road, and should not be approved on this basis alone. At a minimum, the County Zoning Administrator, Planning Board, Appearance Commission or Board of Commissioners should require the Applicant to provide a comprehensive traffic analysis of the proposed Development

pursuant to Section 5.3.B(3)(f) of the Ordinance. Pursuant to the Ordinance, this analysis must follow the NCDOT TIA Guidelines and include consideration of non-motorized and public transportation.

The Applicant Failed to Meet the Procedural Requirements for Rezoning to a Conditional Zoning District Under Section 5.7 of the Ordinance

Section 5.7 of the Ordinance sets forth specific procedures that an applicant for rezoning to a conditional zoning district must follow. As discussed below, the Applicant failed to follow a number of required procedures.

(1) Community Meeting (Ordinance 5.7.A).

Under Section 5.7.A (1) of the Ordinance, the Applicant “is required to hold a community meeting prior to the application deadline for a conditional zoning district rezoning. The applicant shall provide mailed notice of the meeting.” At a minimum, notice of the meeting must be sent by standard mail to owners of abutting property and “include properties directly across a street, easement or private right of way.” In a report to the Chatham County Zoning Administrator and in comments made before the Board of Commissioners, the Applicant stated that a community meeting was noticed on October 1, 2015, that a community meeting was held on October 19, 2015, but that no one other than the Applicant and his agent (William Hood of Jerry Turner and Associate, Inc.) came to the meeting.

However, in fact, the Applicant failed to hold a properly noticed community meeting in violation of Section 5.7.A(1). While there is a form letter addressed to “Adjacent Property Owner” on the letterhead of Jerry Turner & Associates, Inc. in the electronic file for the Development, there is no documentation in the file that this letter was actually provided to any owners of abutting properties. Mr. Dan Titsworth, a property owner directly across the street from the proposed Development, will confirm that he did not receive any mailed notice of a community meeting. Furthermore, at the public hearing before the Board of Commissioners on March 21st, another owner of property abutting the proposed Development commented that the public hearing was the first they had heard of the Development.

There are also two undated documents in the Planning Board file each entitled “Adjacent Property Owners.” However, these are two different lists, with not all names in common. As such, it is not possible for the public to determine what Adjacent Property Owners, if any, were purportedly notified of the community meeting as required by the Ordinance.

As such, the Applicant failed to properly notice and hold a Community Meeting as required under Section 5.7.A of the Ordinance.

(2) Submittal to Planning Department (Ordinance 5.7.C).

Section 5.7.C(2) of the Ordinance requires that the Planning Department, before scheduling the public hearing, “ensure that the application contains all the required information as specified in Section 5.”

As discussed above, the Application fails to include most of the information required in Section 5. These omissions include a demonstration of Ordinance error, reasons why the Development is necessary to promote the public welfare, traffic ramifications of the Development, and more as discussed above. As such, the Application was not complete prior to the public hearing, and the public has not been provided with adequate information to comment fully on the impacts of the proposed Development.

The Environmental Impact Assessment for the Development Is Inadequate to Address the Environmental Impacts of the Development.

The EIA, dated February 26, 2016 and submitted in support of the application, is deficient in the following ways:

(1) Alternatives Analysis

The EIA does not adequately address alternatives to the Development. While there is much discussion in the EIA regarding the suitability of the proposed site for the Development, there is no discussion of alternative sites (i.e. “site selection”) such as properly zoned sites along US 64. Furthermore, the EIA does not address the benefits and advantages – particularly to the Jordan Lake watershed – of a no-build alternative as required.

(2) Traffic Study

As discussed above, a comprehensive traffic study should be required by the County and included in Existing Environment and Project Impacts, Section D.7, of the EIA.

(3) Fueling Station on Site

As discussed above, the site is within the Jordan Lake State Recreational Area and directly abutting Jordan Lake in the Jordan Lake watershed (Classification WS-IVNSW). Marine fuel will be permanently stored and dispensed on site. Under Environment and Project Impacts, Section D.13 entitled “Hazardous Materials” the EIA states simply that “all required gasoline handling, containment, storage and disposal regulations will be followed.”

This general statement is inadequate for the public to fully understand the environmental impacts of the Development. The proposed Development includes the installation of a new petroleum fuel filling station to be constructed in the Jordan Lake watershed abutting Jordan Lake property. However, the EIA contains no discussion of spill prevention, containment and management requirements, or proper storage and disposal of petroleum. Because the Development lies next to a water supply reservoir, from which many County residents take their drinking water, a

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thorough analysis of potential spills and leaks of petroleum and the impacts on Jordan Lake must be included in the EIA.

Conclusion

The proposed Development consists of the construction of a huge building complex that runs parallel to Beaver Creek Road for .36 miles that allows for the storage of over 200 RVs and boats, retail sales (ice) and petroleum fueling. If approved, the Development would be the third such storage facility along a short (1.1 mile) stretch of Beaver Creek Road. If approved, the Development would result in over 1/2 of a mile of storage areas, the equivalent of a substantial strip mall, to be placed within a short 1 mile stretch of a scenic road, within the heart of an R-1 Residential District.

For all the reasons presented in these comments, including the protection of the welfare of Jordan Lake and the citizens of Chatham County, as well as the Applicant's failure to meet numerous standards for approval, the County should reject the request to approve the Development. Should the Chatham County Planning Board or Board of Commissioners have public hearings regarding the proposed Development in the future, I hereby request to be notified and be provided the opportunity to speak.

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Alan H. McConnell". The signature is fluid and cursive, with the first name "Alan" and last name "McConnell" clearly distinguishable.

Alan H. McConnell

cc: Jason Sullivan, Director, Chatham County Planning Department