

## **..TITLE**

Vote on a request to approve Apex Nurseries, Inc. dba Winter Custom Yachts for a conditional use permit revision to change the care-taker/security living unit and add the use of landscaping and grading business and general and professional offices. Property location is 2271 Holland's Chapel Rd., Parcel No. 64272, located on approximately 11.54 acres.

## **..ABSTRACT**

### **Action Requested:**

Request by Apex Nurseries, Inc. dba Winter Custom Yachts for a conditional use permit revision to change the care-taker/security living unit and add the use of landscaping and grading business and general and professional offices. Property location is 2271 Holland's Chapel Rd., Parcel No. 64272, located on approximately 11.54 acres.

### **Introduction & Background:**

A quasi-judicial public hearing was held on June 20 2016. Attorney Patrick Bradshaw presented the request to the Board.

**The Planning Board held their regularly scheduled meeting on July 12, 2016. The applicant's attorney, Mr. Bradshaw, was present to respond to any questions or concerns.**

On April 21, 2008, this property received a Conditional Use Rezoning (CU-Light Industrial) approval with a Conditional Use Permit for a light manufacturing and processing with associated retail sales for a boat assembly and boating and fishing supplies. On June 6, 2014, this property received an approval for a CUP revision to add three additional 1800 sq. ft. buildings.

On or about the end of January 2016 during an investigation on an adjacent property, planning staff was made aware the caretaker/security facility (single family dwelling) was being used for a landscaping contractor. This was not an approved use under the current CUP therefore a Notice of Violation was sent on February 15 2016. The applicant's attorney stated they would be filing a revision request to the CUP to add the use. Further enforcement action is not taken during this review and approval process.

### **Discussion & Analysis:**

In reviewing and considering approval of a revision to a Conditional Use Permit, the Board shall find that all of the following Findings of Facts shall be supported. Per the Zoning Ordinance "In considering an application for a conditional use permit the Board of Commissioners shall give due regard that the purpose and intent of this Ordinance shall be served, public safety and welfare secured and substantial justice done. If the Board should find, after public hearing, the proposed conditional use permit should not be granted, such proposed permit shall be denied." The findings are 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.** The proposed uses are permitted within the Light Industrial district and therefore is eligible conditional uses in the CU-IL district.

**One Planning Board member had concerns that the proposed grading business portion of the request should be limited to an office use and that it could expand to other buildings on the property if the boat building business closed or relocated. Mr. Bradshaw stated that the Conditional Use Permit allows for specific uses that have been requested and the site plan identifies specific buildings for those uses. The landscaping business that already operates from the site is a use that is allowable under the district under the operation of the CUP as requested. Mr. Bradshaw also commented they were agreeable to a change in the conditions to provide that only vehicles with two axles would be allowed on the property. This is intended to address concerns about heavy equipment being stored on the property.**

**Finding 2 – The requested conditional use permit or revision to the existing permit is either essential or desirable for the public convenience or welfare.** The use of the single family dwelling as a caretaker/security residence is no longer needed. In order that the structure be utilized in a capacity that not only benefits this property, it would also allow it to be a productive use to the nearby nursery business operated by the landowner. No additional public improvements will be needed except a revised driveway configuration and permit from NCDOT.

The business provides jobs for several workers and the office use would initially employ about three persons.

**Finding 3 – The requested permit or revision to the existing 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.** Mr. Bradshaw presented a revised landscaping plan to the Chatham Count Appearance Commission. There was minimal change needed as the building and work area currently has a semi-opaque view from the public roadway. More landscaping was required between this property and the adjacent property due to its residential zoning classification. No new signage or lighting is proposed and therefore was not reviewed.

**Finding 4 – The requested permit will be or remain consistent with the objectives of the Land conservation and Development Plan.** Due to the existing screening from the public roadway and adjacent properties, the form and function of rural character is preserved. Employment opportunities are being provided and continues to support balanced growth that consists of a mix of different types of development. Due to the

other business located on this property, the fire station, and the nursery, continued business in the clustered area is being supported. The property is also located in the Chatham County – Town of Cary Joint Land Use Plan and is designated as “Existing Industrial Zoning”. The joint plan also includes the following “Light Industrial: This land use category is typically limited to uses that were previously zoned and approved by Chatham County prior to development of the Joint Plan. The Light Industrial classification describes a wide range of employment-generating office, light industrial, research and development, and “clean” light manufacturing uses. This classification also includes flex office/light industrial uses, warehousing and distribution, transportation related uses, automotive and boat repair and bodywork, trade schools, and so forth. Light Industrial areas should be development in a manner compatible with nearby properties to minimize potential nuisances or damage to the environment.”

The increase of impervious surface is proposed to be .11 acres which will bring the total to 11.8% which is below the 36% allowed.

**Finding 5 – Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary facilities have been or are being provided consistent with the County’s plans, policies, and regulations.** Water and wastewater are being provided by on-site well and septic. A septic revision to change from residential to commercial will be required.

A new driveway permit will be needed from NCDOT due to a realignment off the adjacent property. No other changes or upgrades are needed.

The applicant has self-imposed an additional condition noted as condition No. 1 below due to concerns raised by the CCAC. All agreed to the condition.

**It is planning staff opinion all five (5) findings have been met.**

**The Planning Board voted to recommend approval of the request with a minor revision to Condition No. 1 to further define the size allowances for large equipment or vehicles as shown below.**

**Recommendation:**

The Planning Board by a vote of 10-1 recommends approval of the request with the following conditions and adoption of a Resolution Approving a Conditional Use Permit revision with the conditions:

**Site Specific Conditions**

1. No parking, storage or maintaining of large equipment or large vehicles with more than two axels will be allowed on the site.

2. All conditions approved with the original conditional use permit, and subsequent revision in 2008, will remain in effect and enforceable on the project property, except as modified by this revision.
3. Required plantings shall be installed and maintained to live and thrive at the next planting season following this approval date.

#### **Standard Site Conditions**

4. 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. These include but are not limited to landscaping, lighting, signage, parking, building construction, etc.
5. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Land and Water Resources, Environmental Health Division, Building Inspections, Fire Marshal, etc.) shall be obtained, if required, and copies submitted to the Planning Department to the initiation of the operation/business.

#### **Standard Administrative Conditions:**

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 inspections.
7. Continued Validity – The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditional listed above.
8. Non-Severability – If any of the above conditions is held to be invalid, this approval in it's 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.