

..TITLE

Vote on a request to approve Kunal Enterprises, LLC c/o George Farrell, Jr. for a modification of Condition No. 3 of the December 15, 2014 approval to allow an additional twenty-four months to obtain the first building permit for the project site located at 55 Jordan Lake Commons Dr., Apex, New Hope Township.

..ABSTRACT

Action Requested:

A request from Kunal Enterprises, LLC c/o George Farrell, Jr. for a modification of Condition No. 3 of the December 15, 2014 approval to allow an additional twenty-four months to obtain the first building permit for the project site located at 55 Jordan Lake Commons Dr., Apex, New Hope Township.

Introduction & Background:

A quasi-judicial public hearing was held January 17, 2017. Planning staff provided an overview of the approved conditional use permit and associated background information. The applicant, George Farrell, was also available to answer questions.

Mr. Farrell obtained approval of the current conditional use permit in December 2014. That approval requires new or improved stormwater measures to handle the additional impervious surface that is proposed for the expansion. Part of the approval included a transfer of impervious surface from another property within the same watershed district to allow more area to be covered with parking and structures. That property is located on Marshall Road, Parcel No. 69707, approximately 22.33 acres in size with about 17 acres proposed to be deed restricted so that no impervious surface can be developed. This is a relatively new regulation permitted by the North Carolina Department of Environmental Quality. This extension request does not change that approval.

The Planning Board met at their regularly scheduled meeting on February 7, 2017. Planning staff presented the information from the public hearing and there was a brief discussion to verify stormwater regulations are still required. All required permitting for the development of the new project area, as approved in 2014, must be obtained as provided by local, state or federal laws and ordinances.

Discussion & Analysis:

When the applicant obtained the approval in December 2014, the legislature had also adopted new rules and regulations as they pertain to Jordan Lake's nutrient requirements. Changes in the Jordan Lake drainage nutrient requirements, in connection with the required stormwater controls, was going to result in a mitigation payment to comply with the new regulation. Mr. Farrell has been looking at alternatives in the interim and was not able to find a viable option. Mr. Farrell and the landowner did not know if they would be able to comply with the new regulation and develop the site as approved without the mitigation payment. In 2016, the legislature eliminated the nutrient requirements. Once the nutrient requirements were removed, Mr. Farrell

determined he could move forward with the project, but could not comply with Condition No. 3 to obtain the first building permit.

Recommendation:

The Planning Board recommends approval by vote of 9-0 to the Board of Commissioners.

It is Planning staff's and Planning Board's recommendation to approve the two year extension and modify Condition No. 3 as stated below:

A building permit shall be obtained within two years of the approval of the revision date of March 20, 2017 or this approval becomes null and void.