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P. O. Box 1809, Pittsboro, NC 27312-1809 • Phone: (919) 542-8200 • Fax: (919) 542-8272

## **A RESOLUTION APPROVING AN APPLICATION FOR A CONDITIONAL USE PERMIT REQUEST BY LIR, LLC**

**WHEREAS, LIR, LLC**, has applied to Chatham County for a conditional use permit for an eating and drinking establishment in connection with the 1.147 portion currently zoned B-1 Business, New Hope Township;

**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 uses requested are among those listed as eligible uses in the district in which the subject property is located or is to be located. The list of permitted uses within a B-1 Zoning District includes eating and drinking establishments.
2. The requested conditional use permit is either essential or desirable for the public convenience or welfare because, among other reasons, the Economic Development Strategic Plan shows how much "leakage" is leaving Chatham County for certain uses. Food/restaurant services are one aspect that about 40% is going outside the county. The plan encourages sighting these types of services at existing traffic control devices and this major intersection has light control devices already in place. There is approximately a 10 miles stretch between the US 64 E off ramp to the Chatham/Wake County line. Property tax value would increase over 100% and the tourism industry could increase by offering more hospitality related infrastructure such as restaurants as stated in the plan.
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. NCDOT has given preliminary approval for a commercial driveway access off Beaver Creek Road. The traffic impact analysis stated traffic should continue to remain below the 10,000 vehicles per day allowance already given even with the peak hours this type of service would be utilized. Setbacks from property lines and landscaping have been reviewed and approved and green initiatives will be incorporated into the design of the structures.

4. The requested permit is consistent with the objectives of the Land Development Plan by, among other things, by continuing economic development in areas where current business exists. Businesses have been located at this intersection for over 25 years and continue to operate as sustainable enterprises. The plan also encourages commercial uses along major highways in clusters. Three of the four corners at this intersection are used for commercial purposes.
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 conditions placed on its approval as seen below. The site should continue to utilize the current well and septic system unless other arrangements are made through other conditions placed on the property by other agencies. The site will be developed using newly adopted stormwater management and erosion control measures to better utilize the property.

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

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

**BE IT FURTHER RESOLVED,** 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, LIR LLC, attached hereto and incorporated herein by reference with specific conditions as listed below:

**Site Specific Conditions:**

1. The Appearance Commission and the Planning Department may review the landscaping after planting and then yearly to ensure the intent of the Type B screening is being met. Plants are to be maintained to thrive and survive at all times by whatever means necessary by the applicants/owners.
2. Development of this property shall meet the adopted Stormwater Ordinance and Soil Erosion and Sedimentation Control Ordinance.
3. An additional entrance lane or widening of the proposed entrance lane shall be installed as well as a cross over lane to allow vehicles to go back through the drive-thru if necessary and to allow for follow-thru traffic. An engineer's letter shall be provided to the Planning Department certifying drives will meet the requirement for vehicles with boats and recreational vehicles to adequately maneuver the turns including turn radius and pass areas.
4. Signage allowed is restricted to two (2) freestanding signs and one (1) to be located on the building. One fronting on US 64 E no larger than 10 x 15 and no higher than is permitted by the Zoning Ordinance, Section 15.7 and one fronting at the entrance of the project on SR 1008 (Beaver Creek Road) no larger than 10 x10 and no higher than is

permitted by the Zoning Ordinance, Section 15.7. If lighted, these signs shall have downward lighting installed as described in the Zoning Ordinance. The building sign shall meet the sign requirements as stated in the Zoning Ordinance, Section 15.7.

5. A new site plan shall be submitted detailing the location of the septic system, including tanks, lines, and repair areas, as well as the well location prior to issuance of the zoning compliance permit of the building application.

**Standard Site Conditions:**

6. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Erosion & Sedimentation Control, Environmental Health Section, etc.) shall be obtained and copies submitted to the Planning Department prior to the issuance of a Certificate of Occupancy.
7. Lighting shall be installed and maintained as per the adopted lighting regulations located in Section 11A of the Chatham County Zoning Ordinance. Any lighting or fixtures found to be non-compliant, existing or new, with the regulations shall be replaced at the expense of the landowner/operator and shall hold no liability against Chatham County for the compliance measures.
8. An “as-built” impervious surface calculation shall be submitted to the Planning Department prior to issuance of a certificate of occupancy.
9. Off-site improvements required by NCDOT or any other agency shall be constructed at no cost to Chatham County.
10. A building permit shall be obtained and remain valid at all times or this permit shall become void. The first building permit shall be approved within 24 months of this approval or the permit becomes void; or from the time of the expiration of an appeal period or any court decision, whichever is later.


**Standard Administrative Conditions:**

11. 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. Nothing in this paragraph shall require the applicant to indemnify and hold the County harmless from any losses or costs associated with defense of the County’s actions or procedures in considering and acting upon this application.


12. 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.
13. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued determination with the plans and conditions listed above.
14. Non-Severability - If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
15. 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 26th day of January, 2009.

  
George Lucier, Chairman

ATTEST:

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