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A RESOLUTION APPROVING AN APPLICATION FOR A CONDITIONAL USE PERMIT REQUESTED BY Doug and Cindy Carroll

WHEREAS, Doug and Cindy Carroll, on behalf of Shady Wagon Farm, have applied to Chatham County for a conditional use permit for an area containing approximately 22.14 acres located on Pea Ridge Road, Cape Fear Township, Parcel No. 5241, from RA-40 Residential Agricultural to Conditional Use Office and Institutional (CUP-O&I) for inns including accessory eating and drinking and personal service, training and conference centers which include various events, and a contractor's storage yard;

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.
2. The requested conditional use permit is either essential or desirable for the public convenience or welfare because, among other reasons, the Land Conservation and Development Plan encourages large lot development, preservation of rural character, and developing an integrated approach to protecting and promoting high-quality open space, recreation, historic and tourism locations, as well as a mix of development for economic development and this is an area suitable for this activity. The business will provide economic benefits to the county by adding to the tax base, generating new tax revenues, both ad valorem and sales, creating and facilitating tourism. The permit and requested uses are also desirable because the traffic generated will primarily be during off-peak hours and will not tax county services such as schools, police and fire protection.
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. Among the evidence supporting this finding is the following: Traffic utilizing the site is expected to be generated during off-peak hours and will not exceed the allowable use as defined by NCDOT. The site will be monitored and supervised at all times by the Carroll family. Screening and buffering for all uses are adequate at this time but will be supplemented by the Carrolls.

(Re: Doug and Cindy Carroll Resolution to Approve CUP)

Lighting will be used for security purposes and comply with the lighting requirements of the zoning ordinance.

4. The requested permit is consistent with the objectives of the Land Development Plan by, among other things, maintaining the form and function of rural character at the property and providing a mix of development opportunities for economic growth and to enhance tourism to the county.

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 property will be served by private well and septic though county water is also available if needed. The private septic system will be upgraded to meet Chatham County Division of Environmental Health standards. The applicants have applied for a commercial driveway permit from the NCDOT office for the use proposed and the application states that the amount of impervious surface coverage will be approximately 12.6%; well below the maximum allowance of 36%.

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

That a 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 conditional use permit in accordance with the plan submitted by the Applicant, Doug and Cindy Carroll, on behalf of Shady Wagon Farm, attached hereto and incorporated herein by reference with specific conditions as listed below:

Stipulations Specific to the Application

Site Specific Conditions:

1. A preliminary field reconnaissance archaeological survey to determine the existence or absence of any site of likely archaeological significance will be performed by a professional archaeologist (as listed on the NC Dept. of Cultural Resources website). The reconnaissance survey shall be performed with consultation from the Office of State Archaeology. Areas determined by the NC Dept. of Cultural Resources, Archaeology/Historic Preservation Section as a low probability of likely significant sites are not required to be surveyed. Any site identified with likely archaeological significance shall have an intensive survey to determine significance, and that survey shall be sent to the Office of State Archaeology for review and recommendations. If a site is determined as a candidate for nomination to the "National Register of Historic Places", it shall be preserved or documented prior to being disturbed. The field reconnaissance survey shall be performed prior to land disturbing activity or before a certificate of occupancy approval is issued for the business. Any recommended intensive

survey shall be performed prior to ground disturbing activity in the area of concern. The surveys shall be performed at the landowner's expense.

2. A Stockade Fence constructed of Cedar posts shall be erected along the property line running parallel to the Barn, Pavilion, and Picnic Shelter, as recommended by the Chatham County Appearance Commission. All other recommendations by the Appearance Commission, as attached in "Attachment #1", regarding plantings and buffering shall be met. The Planning Department, with the Appearance Commission, reserves the right for periodic inspections to ensure vegetation is adequate.
3. A letter or certification from the Chatham County Fire Marshal, Building Inspections and Environmental Health Section of the Chatham County Health Department that all structures and access meet the necessary Building, Fire, and County/State Codes for the proposed use shall be obtained and provided to the Planning Department prior to issuance of a Certificate of Occupancy. A Certificate of Occupancy shall be obtained within 90 days from date of this approval or the Conditional Use Permit approval shall be invalid and void.
4. Signage is limited to the existing monument style sign as located on the property. Any additional signage or change in signage must be approved by the Planning Department.
5. An as-built survey, showing the following structures meet all dimensional requirements of the Zoning Ordinance: Contractor's Storage Yard (and all associated structures), Pavilion, Barn and Picnic Shelter, shall be provided to the Planning Department prior to issuance of Certificate of Occupancy.
6. A building permit shall be obtained on any additional structures and remain valid at all times or this permit shall become void. The barn, pavilion, picnic shelter, and structures located within the Contractor's Storage Yard shall receive either an Engineer's Certification, submitted to Building Inspections, or a Certificate of Compliance from the Building Inspections Department on their construction and provided to the Planning Department.
7. The applicants shall submit an engineer's certification that the existing pond on the property will support a two-year, 24-hour storm event to the Planning Department prior to issuance of a Certificate of Occupancy.

Standard Site Conditions:

8. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Erosion & Sedimentation Control, Environmental Health Division, etc.) shall be obtained and copies submitted to the Planning Department prior to the issuance of a certificate of occupancy.
9. 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 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.

10. An "as-built" impervious surface calculation shall be submitted to the Planning Department prior to issuance of a certificate of occupancy.
11. Off-site improvements required by NCDOT or any other agency shall be constructed at no cost to Chatham County.

Standard Administrative Conditions:

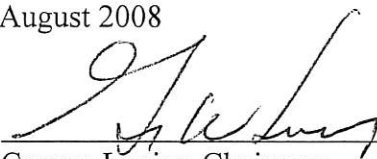
12. Appeal - The County shall be under no obligation to defend any action, cause of action, claim, or appeal involving the decision taken herein. In the event a response is authorized by the County concerning this resolution, or any action to enforce the provisions hereof, the applicant, its successors 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.

13. 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.
14. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued determination with the plans and conditions listed above.
15. Non-Severability - If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
16. 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.

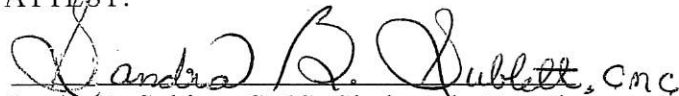
(Re: Doug & Cindy Carroll Resolution to Approve CUP)

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 August 2008

By: 
George Lucier, Chairman

ATTEST:


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

ATTACHMENT #1

The Chatham County Appearance Commission met on June 11, 2008 to review a project from the owners of Shady Wagon Farm, the Carrolls.

The CCAC was concerned that the buildings were, in most cases, very close to the property lines, not allowing for buffer plantings to be installed. In particular, there was no buffer between the barn/pavilion and the property line. Mr. Carroll suggested he could erect a stockade fence of cedar posts along this boundary, which the members agreed was probably the only practical buffer, since there was not enough room to plant shrubbery.

The CCAC suggested that the owners contact Angela Birchett, CZO to incorporate restrictions they have in their rental contract into the restrictions that would be placed on the property as a part of the conditional use permit. There were restrictions on the time renters must vacate the premises as well as number of guests allowed per function and noise level. The CCAC advised the Carrolls to contact the CCAC after talking with Ms. Birchett to incorporate the above conditions, at which time the CCAC would confer by email and issue a written recommendation to Ms. Birchett. Ms. Schwartz contacted Ms. Birchett the following day to express the CCAC's interest in resolving issues to allow the business to remain viable. The CCAC has had no communication with the Carrolls following the June 11, 2008 meeting.

Members Attending: Grim Hobbs, Sue Schwartz, Al Cooke, Caroline Siverson,
Phil Dark