

RESOLUTION APPROVING AN APPLICATION FOR A CONDITIONAL USE PERMIT FOR A REQUEST BY MACGREGOR DEVELOPMENT COMPANY FOR BOOTH MOUNTAIN COMMUNITY

WHEREAS, MacGregor Development Company, and other associated parties, have applied to Chatham County for a conditional use permit for a certain tract or parcel of land containing approximately 294 acres located off Lystra Church Road (SR-1721) and Jack Bennett Road (SR-1717) for use as a Planned Unit Development for residential uses approved this date; and

WHEREAS the Chatham County Board of Commissioners hereby make the five findings as listed below:

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.
2. The requested conditional use permit is either essential or desirable for the public convenience or welfare.
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.
4. The requested permit will be consistent with the objectives of the Land Development Plan.
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.

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

That a Conditional Use Permit be, and is hereby 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 of Booth Mountain Community dated revised December 30, 2004 attached hereto and incorporated herein by reference with specific conditions as listed below:

1. A right turn deceleration lane shall be provided at the developer's expense on the south side of Lystra Church Road at the entrance of the subdivision if allowed by the North Carolina Department of Transportation.
2. There shall be a "no-build" zone adjoining the lots that border the south side of the Herndon Creek ravine (Lot #98-113). The "no-build" area will be such that no house is located more than 125 feet from the edge of the road right-of-way (specifically excluding Lot #114) (The determination of said "no-build" line for Lot #98 shall be depicted on the detailed plan attached). With regard to lots adjoining the north side of the ravine, Lot #59, #60, #63, #67 and #68 shall be restricted so that no house is constructed more than 150 feet from the edge of the road right-of-way. With regard to Lots #61 and #62, no house shall be constructed more than 175 feet from the road right-of-way. No such restriction shall be imposed on Lot #58.
3. With regard to the "no-build" areas (between the rear lot line and the edge of the building area) on the lots mentioned in these conditions, a restriction will be put in place that will allow homeowners to clear such areas only with hand tools (effectively limiting clearing to underbrush and removal of dead vegetation) and disallowing grading.
4. The wastewater treatment plant will be a concrete facility with the blowers being enclosed. The developer will install an aerator in the wastewater treatment plant storage pond. Further, the developer shall use odorophos or other equivalent chemical agent, a chemical addition, at the pump station in order to minimize odors.
5. On the site of the amenity area, there shall be a 200-foot non-disturbance area from the bank of Herndon Creek (see the attached drawing). The only exception to non-disturbance will be the pedestrian access, water line, the sewer line and related appurtenances. There shall be an additional dry basin structure to release the swimming pool backwash into the structure rather than into the wastewater treatment plant.
6. The roads in the estate section may be private, but will be built to the NCDOT standard for the hilly condition. The private road may be gated, provided access is made available to emergency vehicles.
7. There shall be no land clearing until the additional plant survey referred to in the S&EC report is performed in the spring. If endangered or threatened species are found on the property, the applicant shall work with the North Carolina Botanical Garden or similar organization to protect and preserve said species.

8. The developer shall create an easement for a trail from the village area to the school site with the location of such easement to be determined at preliminary plat phase. The installation of such trail will be contingent upon agreement by the Chatham County Board of Education.
9. 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 Department of Cultural Resources website). The reconnaissance survey shall be performed in areas of ground disturbance which would adversely impact potential sites, such as areas of future roadways, active recreation areas to be graded, and lots to be developed (i.e. not including buffers, open space or irrigation areas). Areas determined by the NC Department 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. 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 preliminary plat submission. Any recommended intensive survey shall be performed prior to ground disturbing activity in the area of concern. The surveys shall be performed at the developer's expense.
10. The developer shall erect signs along the mutual boundary with the US Army Corps of Engineers. Said signs shall be placed at sufficient intervals to be visible from a distance of 75 feet. The signs shall provide warning of potential conflicts of land use. On one side the signs shall warn of hunting in the area and on the other side warn of residential development nearby. Said signs shall be of a size and height to be easily seen and of all weather materials such as metal painted traffic control signs. Said signs shall be posted prior to final plat approval. The final plat shall display a note disclosing the potential conflict of land uses for lots adjacent to US Army Corps of Engineers land.
11. The name of the development shall be changed so that it does not duplicate and is not similar to other developments.
12. According to the application booklet, all street lighting shall comply with the proposed Chatham County Draft Lighting Ordinance to minimize light pollution and light trespass. The development's covenants shall also require residential lighting to meet the Draft Lighting Ordinance.

13. There shall be a 50 foot external boundary undisturbed buffer as shown on the plans. In addition to the 50 foot external boundary, with respect to the lots that border the Booth Hill Subdivision to the east (except as noted on the revised plan dated December 30, 2004 for Lots #14-16 and Lot #98) and also with respect to Lots #79, #80, and #23-26, because of limited and unique circumstances the developer has voluntarily agreed to impose an additional 100 foot buffer by including the same in the recorded protective covenants for the subdivision. Said 100 foot buffer may be included as a portion of the lot but left as an undisturbed buffer. The developer shall provide the County a copy of said covenants prior to final subdivision plat approval, to assure the condition is implemented.
14. A "no build" setback, like condition #2 above, of 175 feet on Lots #50, #52-58 and Lots #2-13. Said "no build" setback distance may be reduced to provide a buildable area on said lots.
15. A 50-100 foot undisturbed buffer along the drainage areas of Lots #59 and #60, #64 and #66, #77 and #87 as shown on the revised plan dated December 30, 2004. This area of buffer shall be outside the lots' areas and shall be community common area.
16. The developer shall negotiate with the Chatham County School Administration the feasibility of shared-use of the Booth Mountain Community wastewater treatment system and Chatham County Schools' property for effluent spray irrigation.


Non-Waiver. Nothing contained herein shall be deemed to waive any discretion on the part of Chatham 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.

This 18th day of January, 2005.


Bunkey Morgan, Chairman

ATTEST:


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