

**A RESOLUTION APPROVING AN APPLICATION FOR A CONDITIONAL USE PERMIT FOR A REQUEST BY BYNUM RIDGE, LLC FOR BYNUM RIDGE PLANNED RESIDENTIAL DEVELOPMENT**

**WHEREAS**, Bynum Ridge, LLC, has applied to Chatham County for a conditional use permit for a certain tract or parcel of land containing approximately 650 acres on the south side of Bynum Ridge Road (S.R. 1711) for use as a Planned Residential Development as indicated in the Bynum Ridge Residential Community Application;

**WHEREAS**, the Chatham County Board of Commissioners hereby finds as follows:

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 is 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; and

**WHEREAS** the Chatham County Board of Commissioners hereby finds that the applicant has provided satisfactory evidence to support the cluster design as compared to the design allowed under the standard provisions of the Chatham County Watershed Protection Ordinance.

**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 of Williams Pond Residential Community, A Planned Residential Community by Bynum Ridge LLC dated October 18, 2004 attached hereto and incorporated herein by reference with specific conditions as listed below:

Stipulations Specific to the Application

1. The roads in the development may be private, but will be built to the NC DOT standards for the terrain classification of hilly conditions. The private roads may be gated, provided access is made available to emergency vehicles, law enforcement, and utility vehicles.

2. 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 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 developer's expense.

3. The developer shall continue to work with the Chatham County Historical Association in the documentation of historic structures and cemeteries on the property.

4. Wetland areas as designated on maps and in the field shall remain in an undisturbed state and shall have a minimum undisturbed buffer of 25 feet, except where the US Army Corps of Engineers approves an impact area.

5. A survey of the habitat area of the buttercup phacelia on the development property shall be conducted in the Spring prior to any land disturbing activity. If the species is found, appropriate measures for its preservation shall be taken.

6. There shall be a 200-foot undisturbed buffer area from the bank of the Haw River. The next 100 feet landward shall be undisturbed except that trees smaller than six inches dbh (diameter at breast height) may be removed and there may be pervious landscape paths to landings or decks without walls or roofs. There shall be no turf planted. The next 100 feet landward shall be undisturbed except that trees smaller than six inches dbh may be removed. There shall be allowed pervious landscape paths to landings or decks without walls or roofs and 50% of the area may have turf. Within the 400 foot buffer area described, existing vegetation shall remain except as otherwise provided in these conditions and except for invasive species, which may be removed according to environmentally safe standards and indigenous plants may be planted.

7. The developer shall donate to the State of North Carolina the area along the existing upper trail along the Haw River, where it is located on the developer's property, and a distance a minimum of 20 feet along the landward side of the trail on lots 10-21 and lots 135 & 136.

8. There shall be a minimum undisturbed buffer area of 200 feet from the bank of Pokeberry Creek for lots that abut NC State Park land along Pokeberry Creek (Lots 21,22,31,125,127,128,129,134, &135), plus a 100-foot buffer along the rear property line of 134 and 129. There shall also be a 50-foot buffer along the back property line of other lots along said creek and state lands. Existing vegetation shall remain except for invasive species, which may be removed according to environmentally safe standards and indigenous plants may be planted.

9. 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.

Stipulations Specific to the Development

10. Construction Deadlines. This permit shall automatically expire on the second anniversary of its issuance unless (a) construction has commenced; or (b) a timely filed application for an extension of time has been approved by the County.

11. Land Use Intensity. This special use permit approves:

Gross Land Area	650 acres
Max Impervious surface area	36%
Maximum Number of Dwelling Units	185

12. Watershed Management. A detailed watershed protection plan for the entire project area which shall include impervious surface calculations and a monitoring plan to assure compliance with the maximum impervious surface area allowed herein shall be approved by the Planning Department prior to issuance of a Zoning Determination Permit. Prior to issuance of a Certificate of Occupancy, the developer shall submit evidence satisfactory to the Planning Department of compliance with the approved plan.

13. Storm Water Management. A storm water management plan shall be approved by the County prior to issuance of a Zoning Determination Permit, and the developer is required to provide the County with final plans and an impervious surface calculation sheet. The developer shall construct storm water management control measures sufficient to serve the project area prior to issuance of a Certificate of Occupancy.

14. Fire flow. A fire flow report indicating adequate design shall be approved by the Chatham County Fire Marshal. Adequate fire flow shall be demonstrated prior to issuance of a certificate of occupancy. Any final plan shall indicate adequate access for pumper trucks.

15. Utility and Access Easements. Easement documents as required by the County for any public utilities used or furnished to the project area shall be recorded prior to issuance of a Zoning Determination Permit.

Stipulations Regarding State and Federal Government Approvals

16. Permits. Any required State or Federal permits or encroachment agreements, including a commercial driveway permit(s) from NC DOT be obtained and copies submitted to the County prior to the issuance of a Zoning Determination Permit.

17. Improvements. Off-site improvements required by N.C. DOT or any other agency shall be constructed at no cost to the County including the traffic improvements as stated in the most recent TIA and others as deemed warranted by the NCDOT following its analysis.

Stipulations Regarding Required Improvements18. Utilities.

(a) The developer shall demonstrate availability of adequate water and wastewater supplies to serve the property and plans for provision of the same shall be approved by the County prior to issuance of a Zoning Determination Permit. Such plans shall be in conformity with any County policies then in effect and the developer shall pay all fees and charges associated with the project, including then current utility fees, review and inspection charges prior to issuance of a Zoning Determination Permit or final subdivision plat approval, whichever is earlier. The entire cost of extending public utility services if desired or required under County regulations shall be borne by the developer.

(b) Adequate wastewater service for the project area shall be determined and approved by the appropriate regulatory agency prior to final subdivision plat approval.

19. Stages. If desired, the applicant may construct the project in stages or phases. Each such stage shall be subject to approval by the County pursuant to its subdivision regulations. No final plat of a stage or phase of the development shall be approved if there is any uncorrected violation of any provision of this permit.

20. Erosion Control. An erosion and sedimentation control plan shall be approved by the North Carolina Department of Environmental Health and Natural Resources and said approval submitted to the Planning Department prior to the preliminary subdivision plat approval.

21. Silt Control. The applicant shall take appropriate measures to prevent and remove the deposit of wet or dry silt on adjacent paved roadways.

22. 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 actions, causes of action, claims, demands, damages, costs, loss, expenses, compensation, and all consequential damages on account of, either known and unknown, resulting to or from this decision.

23. Fees. Applicant 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, building inspection, recreation and educational impact fees established from time to time.

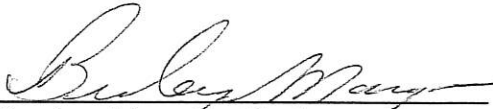
24. Continued Validity. The continued validity and effectiveness of this approval was expressly conditioned upon the continued Determination with the plans and conditions listed above.

25. Non-Severability. If any of the above conditions is held to be invalid, this approval in its entirety shall be void.


26. 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 21<sup>st</sup> day of March, 2005.

  
Bunkey Morgan, Chairman

ATTEST:

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