

A RESOLUTION APPROVING AN APPLICATION FOR A CONDITIONAL USE PERMIT FOR A REQUEST BY BAYCORP DEVELOPMENT INC.

WHEREAS, Baycorp Development, Inc., has applied to Chatham County for a conditional use permit for a certain tract or parcel of land containing approximately 4.6 acres off of U.S. Highway 15-501 North and SR 1532, Mann's Chapel Road for various uses as indicated in the Application; and

WHEREAS, the Chatham County Board of Commissioners, 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 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.

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 Baycorp Development, Inc. attached hereto and incorporated herein by reference with specific conditions as listed below:

Stipulations Specific to the Application

1. The following uses shall require a conditional use site plan review: automobile repair garages - automobile sales and service - automobile service stations - bait and tackle shops - boat, trailer and other utility vehicle sales and service - feed, seed, fertilizer retail sales - landscaping and grading business – motorcycle sales and service - open air sales and service of accessory buildings and gazebos and like free-standing structures - self-storage facility – and swimming pool and related items sales and service.
2. The following uses shall be prohibited:
Amusement enterprises such as pool, bowling, roller rink when housed entirely with a permanent structure - Bus passenger stations - Funeral homes, embalming, crematoria - Fur storage - Hotels, motels, inns - Laundries, laundromats and dry cleaning - Mobile home sales and service – Pawnshops – Radio and television stations and their towers
3. Prior to any land disturbing activities, other agency permits, if applicable, must be obtained and copies furnished to staff, i.e. Chatham County Environmental Health Permit, NCDOT commercial driveway permits, NCDENR erosion control permit, Chatham County Public Works water line plan approval and NCDWQ authorization to construct, etc.
4. All lighting must conform to the Chatham County Draft Lighting Ordinance.
5. Signage shall have a maximum height of 20 feet above the ground at its base and shall otherwise conform to Section 13.7, Signs Permitted in the B-1, Business District, of the Chatham County Zoning Ordinance.
6. A revised site plan shall be furnished to staff prior to issuance of a building permit to include specific signage location(s) and size and shall include a 15 foot wide, type A, Opaque landscape buffer or a 10 foot wide enhanced landscape buffer on the southern property boundary, except where natural vegetation exist that provides an opaque buffer. The revised plan shall also include a 10 foot wide, Type B, Semi-opaque buffer on the northern property boundary adjacent to the Citgo/Pantry property. If in the future, the natural, existing vegetation as shown on the site plan is reduced in size to the minimum 15 foot wide buffer, and under story plantings do not provide an opaque screening, applicant shall be required to install plantings to provide said opaque screening. All required landscaping shall be installed prior to the issuance of a certificate of occupancy for the structure. Landscaping shall be property maintained and replaced when needed.
7. A paved driveway connection from the applicant's property to the southern property line of the Citgo/Pantry property to the north is required. The Planning staff encourages applicant and the owner of the Citgo/Pantry property to work

together to open and complete the driveway connection so as to allow for interior traffic movement between the properties. The location of the driveway stub to the property line shall be shown on the revised site plan.

8. Storm water management plan shall be as specified in the application.
9. This permit shall automatically expire on the second anniversary of its issuance unless (a) construction has commenced after the issuance of a Zoning Determination and Building Permit; or (b) a timely filed application for an extension of time has been approved by the county.

Stipulations Specific to the Development

10. 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.
11. 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 Required Improvements

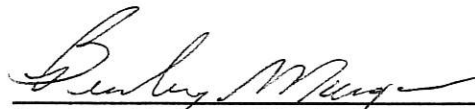
12. Erosion Control. An erosion and sedimentation control plan if required shall be approved by the North Carolina Department of Environmental Health and Natural Resources, or other authorized regulatory agency, and said approval submitted to the Planning Department prior to issuance of a building permit.
13. Silt Control. The applicant shall take appropriate measures to prevent and remove the deposit of wet or dry silt on adjacent paved roadways.
14. 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.

15. 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.
16. Continued Validity. The continued validity and effectiveness of this approval was expressly conditioned upon the continued Determination with the plans and conditions listed above.
17. Non-Severability. If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
18. 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 17th day of October, 2005.



Bunkey Morgan, Chairman

ATTEST:


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