

PLANNING & INSPECTIONS DEPARTMENT
Craig N. Benedict, AICP, Director

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Hillsborough, NC 27278



May 5, 2017

Southeast Property Group LLC
ATTN Kara Brewer
82 Jordan Hills
Chapel Hill, NC 27517

Re: **CASE NUMBER ZCP17-0003** Zoning Compliance Request for Rural Special Events per the Orange County Unified Development Ordinance (UDO) 5.17.8(A) for Rural Special Events on property located off of Morrow Mill Road (PIN 9729-50-7168)

NOTICE OF APPROVAL WITH CONDITIONS

Mrs. Brewer:

On Monday May 1, 2017 you submitted materials and plans requesting a Zoning Compliance Permit for a parcel of property within the Bingham Township of Orange County. Specifically in accordance with the provisions of Section(s):

- 2.4 *Zoning Compliance Permit*,
- 2.5 *Site Plans*,
- 5.2.1 *Table of Permitted Uses*, and
- 5.17.8 *Rural Special Events*

of Orange County Unified Development Ordinance (UDO) you applied for a Zoning Compliance Permit seeking authorization to commence a Rural Special Event use from a parcel off of Morrow Mill and Millikan Road commonly known as the “*Barn of Chapel Hill*” and/or “*Wild Flora Farm*.”

The parcel subject to the aforementioned application, further identified utilizing Orange County Parcel Identification Number (PIN) 9729-50-7168, is approximately 21 acres in area and is zoned Agricultural Residential (AR) (hereafter ‘the Property’).

A Rural Special Event is defined within Article 10 *Definitions* of the UDO as:

A temporary or seasonal commercial activity that occurs on a bona fide farm and which is expected to attract more than 20 people at any given time.

In reviewing Section 5.2.1 *Table of Permitted Uses* of the UDO, a Rural Special Event is listed as a permitted use of property within the AR general use zoning district subject to the

issuance of a Zoning Compliance Permit. Further per Section 5.17.8 (A) (1) this use: '*must be located on a bona fide farm*'. As part of your submittal you provided documentation, specifically a copy of the US Department of Agriculture (USDA) farm certificate, demonstrating the property is a farm as defined in NC General Statute 153A-340 (b) (2). Further, staff relied on the Order executed by the Orange County Board of Adjustment on April 4, 2017 finding the property was, in fact, a bona fide farm. Staff is pleased to inform you we have determined the use can be developed/operated on the property subject to compliance with applicable development standards.

Staff reviewed your request including additional information and clarifications submitted on or about May 4, 2017 as part of your evidence the proposed Rural Special Event use meet the nine General Standards as articulated in Section 5.17.8. Staff has determined that the submitted materials and plans sufficiently demonstrate the proposals compliance with applicable standards. Staff would, however, like to comment on specific aspects of this request.

1. Section 5.17.8 (A) (7) reads as follows: "*Special Events shall cease no later than 9 p.m. on Sunday through Thursday or 11p.m. on Friday and Saturday unless approved otherwise in the permit.*" Within your application you requested modified hours.

From our standpoint staff has no discretionary power/ability to deny or alter the requested times as articulated within the aforementioned section of the UDO and as requested in Addendum A.

Please note, however, that this does imply that other requirements and standards regarding nighttime activity (namely the Orange County Noise Ordinance) are waived/modified.

2. 5.17.8 (A) (8) reads as follows: "*Food Services are not allowed unless approved in the permit.*" Within your submittal you indicate food will be served for special events, provided by various catering services. Further you indicate attendees will be allowed to sample products grown on the property by Wild Flora Farm.

In responding to this request staff would like to offer the following:

- a. We cannot restrict the consumption of food products/by-products produced by the farm on a bona fide farm property.
- b. Similar events occurring throughout the County are permitted to have food service so long as applicable Orange County Health Department guidelines/standards are adhered to.

From our standpoint, staff has no discretionary power/ability to prohibit food service on the property during a special event because similar events occurring on property throughout the County are not similarly restricted. Further if all applicable County Health Department guidelines are adhered to, the simple act of consuming food does not constitute a land use issue.

3. The occupancy/use of the barn structure may depend on specific permits and inspections (namely the plumbing, electrical and mechanical and environmental health). Please ensure that if the barn is in fact used (including the bathroom facilities) that all the applicable permits and inspections have been made, or the facilities have been secured from use during the event.

Any action on this permit request does not waive or eliminate compliance with applicable standards enforced by other entities (i.e. building, fire code, environmental health).

4. The 2 tents to be erected in support of the Rural Special Event use will require tent permits and inspections from the Orange County Fire Marshal. Action on this permit does not imply that a granting/waiving of those required standards/processes.
5. Staff interprets the *12-day per year limit* for events, as detailed in Section 5.17.8 (A) (5), to mean you can either:
 - a. Have a single event, with no more than 150 people at a given time, over 12 days, or
 - b. Have a single/separate event on 12 days during the year.

Please note this does not impact the holding of activities incidental or related to the bona fide farm operation.

The submitted application package states there shall be only 12 Rural Special Events activities occurring on the property during the 2017calendar year from the date of application submittal.

In accordance with the provision(s) of Section 2.4 of the UDO staff hereby **APPROVES WITH CONDITIONS** a Zoning Compliance Permit for the proposed Rural Special Events Use as articulated within your application. Prior to all events you are required, as detailed in Section 5.17.8 (A) (9) to submit: '*Documentation shall be submitted from the Fire Marshal and Building Inspections Department stating that all areas open to the public meet state regulations*'.

The Orange County Planning Department thanks you for submitting this application and indicating a desire to work within the land use regulations set forth in the UDO. If you have any questions, or issues regarding this permit please feel free to call us at (919) 245-2575.

Sincerely,



Michael D. Harvey, AICP, CFM, CZO
Current Planning Supervisor
Orange County

CC: Travis Myren, Assistance County Manager;
Craig Benedict, Planning Director;
James Bryan, County Attorney's Office;
Michael Rettie, Building Inspections;
Allan Clapp, Environmental Health;
Jason Shepard, Fire Marshal, and
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