



## **Chatham County Planning Board Agenda Notes**

**Date: October 4, 2011**

**Agenda Item: VII. 2.**

**Attachment #: 2**

☐ **Subdivision**

☒ **Conditional Use Permit**

☐ **Rezoning Request**

☐ **Other:**

---

<b>Subject:</b>	Request by Withers & Ravenel on behalf of Jo Ann Davis, Parcel No. 19644, Williams Township, located t 9157 NC Hwy 751, for a revision to an existing conditional use permit to add the two (2) acre tract from Parcel No. 19645 to the existing 17.246 acre tract, permit the residential structure to be used as retail, and convert the non-residentially approved structure on the original permit back to residential use for a caretaker's facility.
<b>Action Requested:</b>	See Recommendations
<b>Attachments:</b>	<ol style="list-style-type: none"><li>1. Application packet provided prior to 9-19-11 public hearing</li><li>2. Recommendations from the September 14, 2011 Appearance Commission meeting.</li><li>3. Staff photos of the site dated March 31, 2011</li><li>4. May 23, 1995 letter from Environmental Health on residential structure on Parcel No. 19644</li></ol>

### **Introduction & Background**

A quasi-judicial public hearing was held September 19, 2011. No one spoke on the issue and the hearing was closed.

Parcel No. 19644 received its original approval for a landscape design business, lawn & garden shop, and horticulture on June 19, 1995 on 17.246 acres. Since that time the business has continued to operate and expand to meet demands of the public. There were five (5) conditions placed on the approval at that time which to Planning staff knowledge have been maintained.

Within the approvals of the application materials, it was noted that the residential structure located on the site could no longer be used for residential purposes. (See letter dated May 23, 1995 from Environmental Health). We were advised by the manager of the property it has continued to be used for both purposes. The residential structure on Parcel No. 19645 is currently used for the retail garden center. These are addressed below. All other areas and activity will remain unchanged.

## **Discussion & Analysis**

A conditional use permit revision must meet the required five findings as required by the Chatham County Zoning Ordinance. Those findings are addressed as follows:

**FINDING #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.** Within the original B-1 Business district, single family dwellings were a permitted use. The conditional use zoning district does not change that fact. A single family dwelling unit that is used for a “caretaker” facility is permitted. All other non-agriculturally defined uses are also permitted and may continue. Agricultural uses as defined are exempt from zoning regulations. It is Planning staff opinion this finding has been met.

**FINDING #2 – The requested conditional use permit is either essential or desirable for the public convenience or welfare.** The business has remained and basically continues to operate in the same manner as its original approval in 1995. Sustaining existing businesses in the county is an objective of the Land Conservation and Development Plan.

Planning staff has received no complaints in connection with this property. No additional public services or improvements are needed to make these changes to the site.

Sales tax revenue for 2010 was approximately \$13,000 and property taxes have been about \$4,000/year. Employment on the property allows for 10 full-time, 5 part-time, and 5 seasonal employees to work in the county. It is Planning staff opinion this finding has been met.

**FINDING #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.** In February 2000, NCDOT issued a commercial driveway permit. Planning staff have not been notified of any issues regarding traffic to and from this property. Traffic use to the site does not appear to impact the usage allowance on NC 751.

In the application materials, the applicant states the nursery makes every effort to utilize sustainable principles in its operations. This includes but is not limited to reusing water on site for irrigation purposes by use of ponds.

The applicant/s met with the Appearance Commission and overall they were pleased with the existing vegetative screenings. However, there were recommendations agreed upon with the applicant that will be implemented upon approval.

No additional lighting, noise, or signage is needed or requested. It is Planning staff opinion this finding has been met or may be met through conditions.

**FINDING #4 – The requested permit will be consistent with the objectives of the Land Use Plan.** Under the section titled “Economic Centers” on page 27 of the Plan, support for the continuation of

current activities is encouraged. The Plan also encourages the need to sustain the county's rural character and environmental quality. In the application, the applicant states they help protect water quality and the availability of ground water and surface water resources by utilizing on-site ponds. The ponds are used for irrigation and the area around the ponds has been graded to allow surface water to drain into them. This serves as their storm water pond. A review and approval by the Environmental Quality Director may be required should any additional land disturbance be needed. It is staff's opinion this property has complied with this. The structure on the parcel still looks like a residential dwelling unit. There has been landscaping and buffers installed as to buffer the view from the public roadway. These steps assist in maintaining the rural character.

Page 34 of the Plan specifically lists NC 751 near Durham and as area that may link to infrastructure and build on the economic activity in southern Durham County. It is Planning staff opinion this finding has been met.

**FINDING #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.** There are no expansions or improvements to access roads requested. Re-inspections of the septic systems on both sites will be required and upgraded, if required, before change of occupancy permits may be finalized and issued for each structure.

The site is located within the WSIV-Protected Area of the Jordan Lake Buffer Rules. Approximately 17% of the site is impervious surface. The maximum is 36%. A revised impervious surface calculation map will be required once all ADA, parking lot, and sidewalk accesses are constructed. Staff does not feel the 36% impervious will be exceeded. It is Planning staff opinion this finding has been met or may be met through conditions.

### **Recommendation**

Planning staff recommends approval of the conditional use permit revision request. The Planning Board has up to three (3) meetings in which to make a recommendation to the Board of Commissioners. Should your recommendation be a favorable one, please consider the below conditions as part of that approval:

#### **Site Specific Conditions**

1. The recommendations as provided by the Chatham County Appearance Commission and as outlined in Section 12 of the Chatham County Zoning Ordinance shall be followed.
2. All other previous conditions as outlined in the original approval shall remain in effect.
3. A copy of the recombination plat shall be supplied to the Planning Department and filed with the Register of Deeds within six (6) months of approval date.
4. Compliance must be met with Building Inspection regulations, Environmental Health regulations, and the Fire Marshal's regulations before a Certificate of Occupancy may be issued and a copy supplied to the Planning Department.
5. A revised map detailing the current and increased impervious surface calculations shall be submitted before the Certificate of Occupancy is issued.

6. All upgrades, changes, and/or additions as requested shall be completed within 24 months of the approval date of the application or the revised conditional use permit becomes void and null.

**Standard Site Conditions**

7. Signage, parking, and lighting shall conform to the Chatham County Zoning Ordinance.
8. The application and approved recommendations as provided for and/or conditioned, are considered to be the standards as set forth and shall comply as stated. Changes or variations must be approved through the Planning Department or other approving board before any such changes can take place.
9. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Erosion & Sedimentation Control, Environmental Health Division, Storm water Management, Building Inspections, etc.) shall be obtained, if required, and copies submitted to the Planning Department prior to the initiation of the operation/business.

**Standard Administrative Conditions:**

10. 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.
11. 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.
12. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued determination with the plans and conditions listed above.
13. Non-Severability - If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
14. 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.