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A RESOLUTION APPROVING A REVISION TO A CONDITIONAL USE PERMIT REQUEST

BY Jo Ann Davis dba For Garden's Sake Nursery

WHEREAS, Withers & Ravenel on behalf of Jo Ann Davis has applied to Chatham County for a revision to an existing conditional use permit on Parcel No. 19644 located at 9157 NC Hwy 751, Williams Township, 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, and;

WHEREAS, the Chatham County Board of Commissioners having considered all of the evidence in the whole record and 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/s requested are among those listed as eligible uses in the district in which the subject property is located or is to be located. In the list of Permitted Uses within the Chatham County Zoning Ordinance, a dwelling and a retail store are approved uses under the B-1 zoning classification.
2. The requested conditional use permit is either essential or desirable for the public convenience or welfare because, among other reasons, the applicant has continued to operate this business in the same manner as the original approval in 1995. Sustaining existing businesses in the county is an objective of the Land Conservation and Development Plan.
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. The operators of the site have made efforts to utilize sustainable principles in its operations such as reusing water on site for irrigation by use of several ponds. Landscaping has also been incorporated in a way that provides buffering which enhances the rural character of the surrounding areas.
4. The requested permit is consistent with the objectives of the Land Development Plan by, among other things, encouraging a mix of development by guiding balanced growth to suitable locations while maintaining rural character. The site has been used for non-residential purposes since 1995 and the Plan encourages the continuation of existing commercial areas. The site aids

in the protection of water quality and the availability of ground and surface water by utilizing on-site ponds. Page 34 of the Plan specifically lists NC 751 near Durham as an area that may link to the infrastructure and build on the economic activity in southern Durham County.

5. Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary facilities have been or are being provided through the proposal consistent with the County's plans, policies and regulations and confirmed through any additional conditions placed on its approval as seen below. The site currently has an approved commercial driveway permit, septic systems, and water supply. The site is located within the WSIV-PA of Jordan Lake and is permitted up to 36% impervious surface. The site currently yields approximately 17% impervious surface.

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 submitted by the Applicant, Withers & Ravenel on behalf of Jo Ann Davis dba For Garden Sake Nursery, and incorporated herein by reference with specific conditions as listed below;

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 the approval date of this permit.
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, etc.) shall be obtained, if required, and copies submitted to the Planning Department prior to the initiation of the mulching operation.

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.

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 7th day of November 2011

By: _____

Brian Bock, Chair
Chatham County Board of Commissioners

ATTEST:

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