



# Chatham County, NC

## Legislation Details (With Text)

**File #:** 19-3228      **Version:** 2

**Type:** Resolution      **Status:** Passed

**File created:** 8/29/2019      **In control:** Planning

**On agenda:** 11/18/2019      **Final action:** 11/18/2019

**Title:** Vote on a request to approve a quasi-judicial request by For Garden’s Sake Nursery & Landscaping for a conditional use permit revision on Parcel No. 19644, located at 9197 NC 751 Hwy, to add the additional use of Event Center Limited.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. More information from the Planning Department website

Date	Ver.	Action By	Action	Result
11/18/2019	2	Board of Commissioners	adopted	Pass
9/16/2019	1	Board of Commissioners	referred	

Vote on a request to approve a quasi-judicial request by For Garden’s Sake Nursery & Landscaping for a conditional use permit revision on Parcel No. 19644, located at 9197 NC 751 Hwy, to add the additional use of Event Center Limited.

**Action Requested:**

Vote on a request to approve a quasi-judicial request by For Garden’s Sake Nursery & Landscaping for a conditional use permit revision on Parcel No. 19644, located at 9197 NC 751 Hwy, to add the additional use of Event Center Limited.

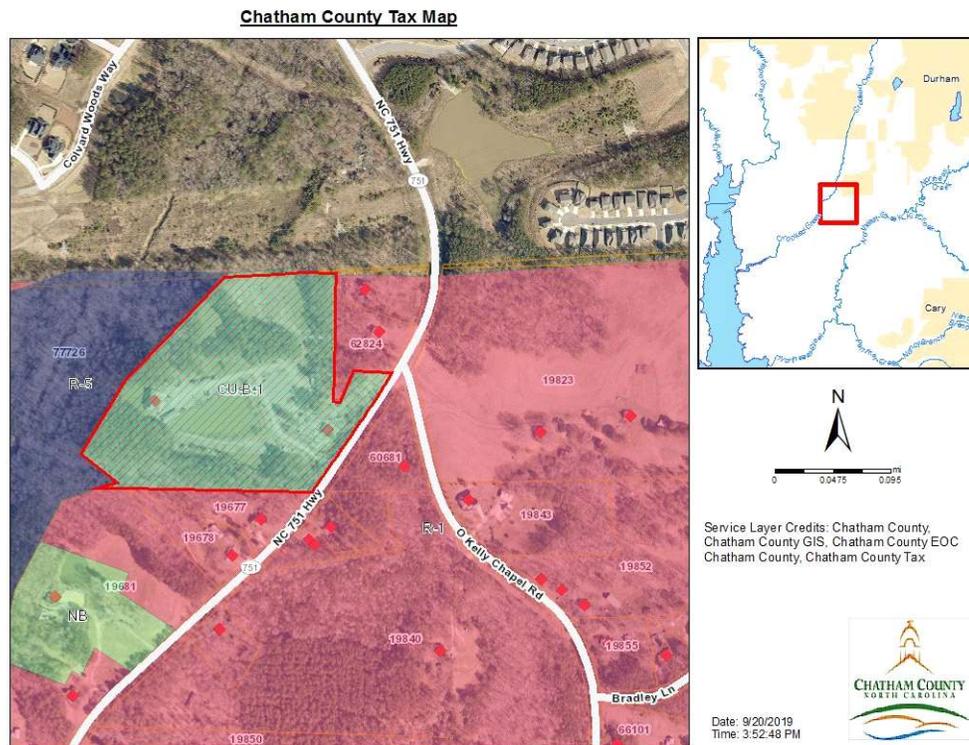
**Introduction & Background:**

A quasi-judicial public hearing was held on September 16, 2019. Planning staff presented the request and stated there are no current issues with the property or the request. The applicant was available for questions. No-one else spoke on the matter.

Commissioner Crawford had one question about the former O’Kelly Chapel church that the applicant now owns and what the intent is for its use. The applicant stated they would like to move it at some point onto the property and utilize it for special events which will help preserve it and maintain some history of the area.

A conditional district B-1 (CU-B1) rezoning with a conditional use permit for a landscape design business, lawn and garden shop and horticulture was approved June 20, 1995. The business has continued to operate and expand their business since. This request is intended to provide additional services that are being requested by the community based on the location and the layout of the property, as well as the desire of the applicant to expand their business.

The property is zoned CU-B1 and the adjoining properties are zoned R1 and R5, which are residential zoning districts. This request will not expand the boundaries of the business zoned area.



*The zoning map above displays the Conditional Use Business (CU-B1) zoning district the property is located in and the surrounding zoning classifications.*

There are currently no known violations existing on the site. We have received no complaints or concerns related to this property.

### Discussion & Analysis:

In reviewing and considering approval of the conditional use permit (CUP) or revision to an existing CUP, the Board must find that all of the findings of facts shall be supported. Per the Zoning Ordinance, “In considering an application for a conditional use permit or revision to a CUP, the Board of Commissioners shall give due regard that the purpose and intent of this Ordinance shall be served, public safety and welfare secured and substantial justice done. If the Board should find, after public hearing, the proposed conditional use permit or revision thereof should not be granted, such proposed permit shall be denied.”

**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.** The use of an Events Center Limited and general and professional offices are among those permitted in the current zoning classification for the property. There is no error in the ordinance that would be remedied with this

request. **It is planning staff opinion this finding is met.**

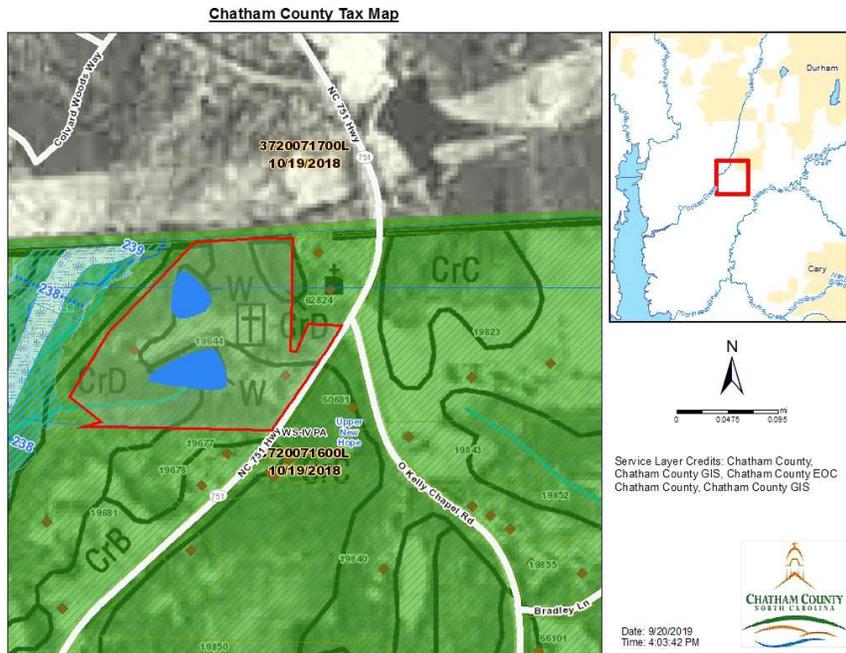
**Finding 2 - The requested conditional use permit or revision to the existing permit is either essential or desirable for the public convenience or welfare.** The property has been successful with its current business and the applicant contends they receive many requests for use of the property for small scale events such as weddings, rehearsal dinners, family and group gatherings, etc. They are located in close proximity to Pittsboro, Durham, NW Cary, Chapel Hill and other population centers in the Triangle region. The applicant thinks that with the population growth in the surrounding area makes this a prime location for the services they can offer all while maintaining a rural setting. The appearance of the boundary of the property will not be changed/modified. All activity will occur in the interior of the site. **It is planning staff opinion this finding is met.**

**Finding 3 - The requested permit or revision to the existing 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 property currently operates a retail business seven days a week and the parcel is approximately 20 acres. The owners have maintained a rural character in the development of the site and have proposed to continue in that same manner. Events and any additional structures that are indicated on the site plan will be constructed on the interior of the property where activity is already occurring.

The current parking will accommodate any new uses that would fall under the events center limited so no new parking areas are proposed. Signage and lighting are in place and no changes are proposed. The applicant has stated in the application they will adhere to any noise ordinance regulations and all other county requirements.

There is a cemetery located on a portion of the property that adjoins the O'Kelly church property which will not be impacted and will remain undisturbed.

The property is located within a WS-IV Protected Area watershed district and also within the Jordan Lake drainage. Any additional built upon area will have to meet the requirements of the watershed protection ordinance. There is one stream identified on the property on both the USGS and NRCS maps and that feature will require a 50' buffer on either side.



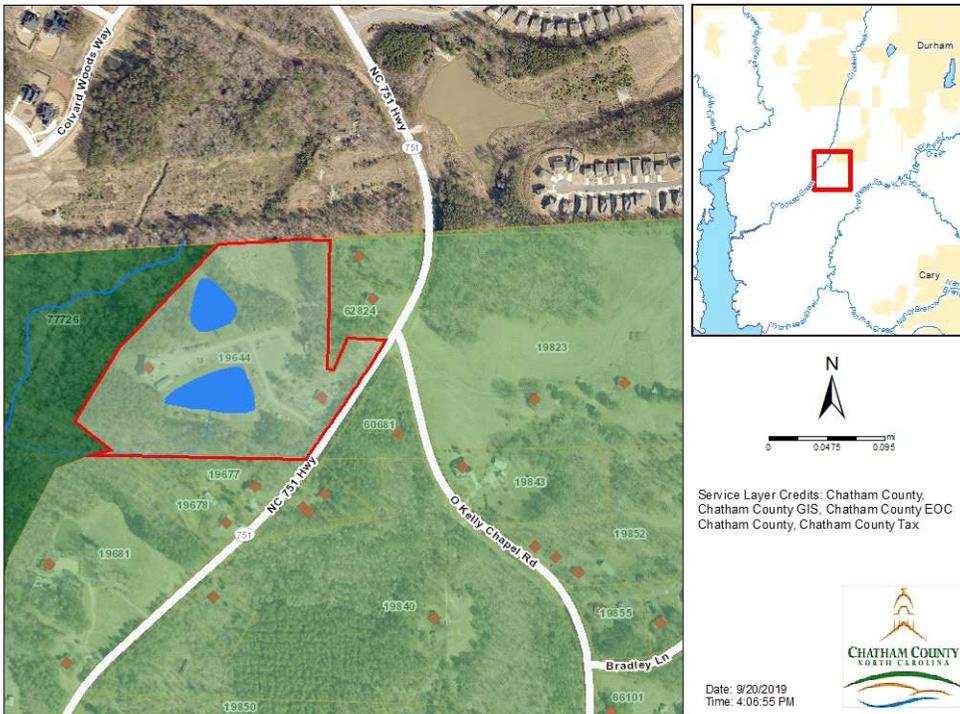
*The map above shows the WSIV-PA watershed district within the Jordan Lake Buffer rule area. The map also shows a stream on the property and special flood hazard area on adjoining property owned by the US Army Corps of Engineers.*

**It is planning staff opinion this finding is met.**

**Finding 4 - The requested permit will be or remain consistent with the objectives of the Plan Chatham comprehensive land use plan.**

The property is located within an area identified as Conservation on the Future Land Use and Conservation Plan Map in the comprehensive plan. The conservation designation is described as development which is predominately residential and sensitively integrated into the landscape. The plan also includes in ED Policy 4, Strategy 4.4 to “permit existing commercial and industrial uses that are appropriately zoned to continue to operate, and allow for reasonable expansion, contingent upon meeting environmental and transportation requirements.”

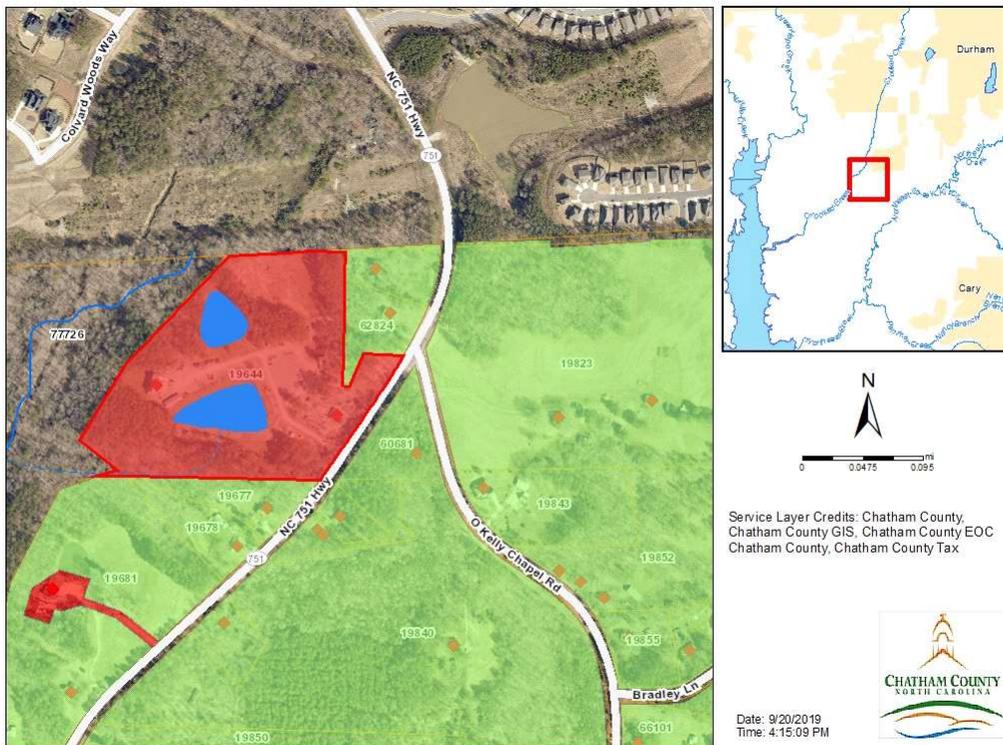
Chatham County Tax Map



*The map above shows the Future Land Use and Conservation Map and the property is located in an area identified as Conservation. The map is a guide showing the intended future land use pattern using various land use areas. Strict adherence to the map in making land use decisions is not recommended but should be used as a guide.*

The property is also located within the Chatham County-Town of Cary Joint Land Use Plan and the Joint Land Use Plan Map identifies this area as “Commercial/Retail”. This designation “includes shopping/retail uses, dining, entertainment, services, and related” and was included in the plan to recognize existing businesses that were in existence prior to adoption of the joint plan.

Chatham County Tax Map



The map above shows the Joint Land Use Plan Map and the property is located in an area identified as Commercial/Retail. The map is a guide showing the intended future land use pattern using various land use areas.

It is planning staff opinion this finding is 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.**

The application notes that the current facilities and septic systems should be adequate for the initial phase of the upgrades, but they will comply with all regulatory requirements. It is further noted that prior to construction of the proposed buildings, that restrooms and septic system requirements will be met. Additionally, all county regulations will apply to future development and will be reviewed as part of the permitting process. **It is planning staff opinion this finding is met.**

The Planning Board discussed this item during their October 1, 2019 meeting and discussion included whether additional parking is proposed, status of the built upon area, and if a 50' buffer applied to the stream leaving the pond. Staff responded that additional parking wasn't proposed at this time, that updated built upon area calculations would be required if there were any changes to the site plan, and 50' buffer was required adjacent to both sides of the stream leaving the pond. The

applicant also commented that he would honor the 50' buffer and update the site plan to reflect it. The Planning Board voted unanimously to recommend approval of the application with an additional condition that the site plan reflect the 50' buffer.

**Based on all five findings being supported, planning staff supports the CUP revision request and the Planning Board recommends approval.**

**How does this relate to the Comprehensive Plan:** The property is located within an area identified as Conservation on the Future Land Use and Conservation Plan Map in the comprehensive plan. The conservation designation is described as development which is predominately residential and sensitively integrated into the landscape. The plan also includes in ED Policy 4, Strategy 4.4 to “permit existing commercial and industrial uses that are appropriately zoned to continue to operate, and allow for reasonable expansion, contingent upon meeting environmental and transportation requirements.” The property is also located within the Chatham County-Town of Cary Joint Land Use Plan and the Joint Land Use Plan Map identifies this area as “Commercial/Retail”. This designation “includes shopping/retail uses, dining, entertainment, services, and related” and was included in the plan to recognize existing businesses that were in existence prior to adoption of the joint plan.

### **Recommendation:**

The Planning Board recommends approval by unanimous vote (9-0) to the Board of Commissioners adoption of resolution approving a quasi-judicial request by For Garden’s Sake Nursery & Landscaping for a conditional use permit revision on Parcel No. 19644, located at 9197 NC 751 Hwy, to add the additional use of Event Center Limited. The following conditions are provided for consideration if recommended for approval:

### **Site Specific Conditions**

1. Add the following use: Event Center Limited.
2. Amend the site plan as shown in application with the addition of a 50' on either side of the stream leaving the pond.
3. All existing conditions shall remain in effect, except as modified by this conditional use permit amendment.

### **Standard Site Conditions**

4. The application, standards and adopted regulations of the applicable ordinances and policies, and the 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. These include but are not limited to landscaping, lighting, signage, parking, building construction, etc.
5. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Land and Water Resources, Environmental Health Division, Building Inspections, Fire Marshal, etc.) shall be obtained, if required, and copies submitted to

the Planning Department to the initiation of the operation/business.

**Standard Administrative Conditions:**

6. 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 inspections.
7. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditional listed above.
8. Non-Severability - If any of the above conditions is held to be invalid, this approval in it's entirely shall be void.
9. 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.