



# Chatham County, NC

## Legislation Details (With Text)

**File #:** 19-3226 **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 Ernest Clemons for a conditional use permit revision on Parcel No. 19508, located at 1711 Farrington Point Rd., to add the additional use of retail stores and personal service shops similar to those listed dealing in direct consumer and personal services.

**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 Ernest Clemons for a conditional use permit revision on Parcel No. 19508, located at 1711 Farrington Point Rd., to add the additional use of retail stores and personal service shops similar to those listed dealing in direct consumer and personal services.

### Action Requested:

Vote on a request to approve a quasi-judicial request by Ernest Clemons for a conditional use permit revision on Parcel No. 19508, located at 1711 Farrington Point Rd., to add the additional use of retail stores and personal service shops similar to those listed dealing in direct consumer and personal services.

### Introduction & Background:

Approximately 1.133 acres of the 8.07 acre property was rezoned from residential to Conditional Use B-1 (CU-B1) on May 17, 1999. The approved use is for retail stores and personal service shops specifically for the sale, servicing, and utilization of computers, e-mailing, public Internet access, and computer consulting for individuals and small businesses. In addition, other uses permitted are computer sales and service; internet service providers; art and craft sales; clothing sales; fishing equipment sales; water sports equipment sales/rental and service; consultation such as financial, marriage, and personal. One notice of violation was issued on September 22, 2008 for having uses on the property not included in the Conditional Use Permit approval. From email correspondence in the file, it appears compliance on this issue was met by December 31, 2008. There have been no other zoning violations on this property.

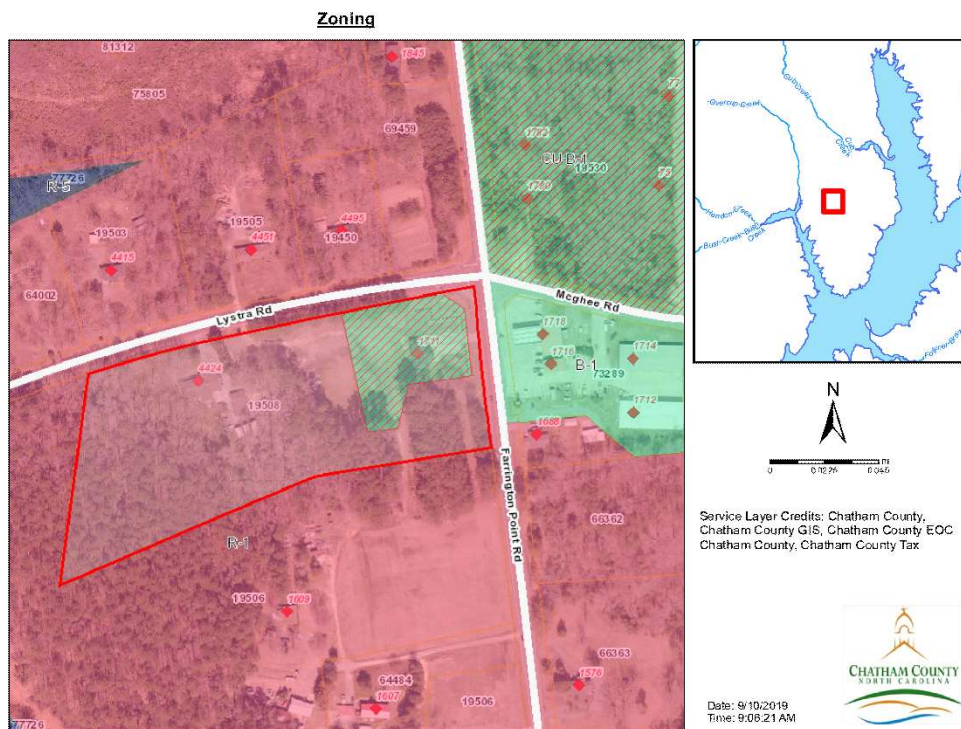
A quasi-judicial public hearing was held on September 16, 2019. Planning staff presented the

application and supporting information. Mr. Ernest Clemons, owner and applicant, also spoke to the Board on the request. The request is to remove the word “specifically” from “specifically for the sale, servicing...” and to add the use of “retail stores and personal service shops similar to those listed dealing in direct consumer and personal services” in order to attract a wider range of small business tenants. No one else spoke on the matter.

### Discussion & Analysis:

In reviewing and considering approval of the 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.”

The property is currently zoned CU-B1 for retail stores and personal service shops specifically for the sale, servicing, and utilization of computers, e-mailing, public Internet access, and computer consulting for individuals and small businesses. In addition, other uses permitted are computer sales and service; internet service providers; art and craft sales; clothing sales; fishing equipment sales; water sports equipment sales/rental and service; consultation such as financial, marriage, and personal. The property to the east, across Farrington Point Road is zoned B-1, Business, and the property diagonal is zoned CU-B1 for various business uses and was approved on November 20, 2006. The other adjoining and adjacent properties are zoned R-1, Residential.



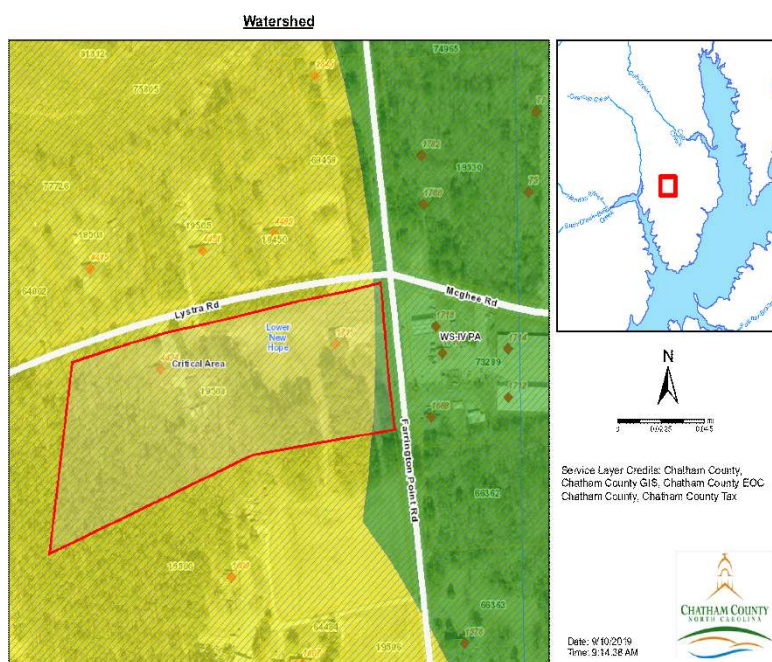
*The zoning map above displays the Conditional Use Business (CU-B1) zoning district the property is*

located in and the surrounding zoning classifications.

**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 removal of the word 'specifically' in the currently approved use for the property remains compliant with the uses listed in the B1, Business, zoning district and "retail stores and personal service shops similar to those listed dealing in direct consumer and personal services" is an allowed use. **It is planning staff opinion this finding has been 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 applicant contends that the request for the additional use will provide the community with more choices for service, retail, trade, and health related local small business. Additionally, the applicant is not requesting any modification to the site plan, so any additional use would have to conform to the existing site plan or an additional CUP amendment would be required. **It is planning staff opinion this finding has been 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 applicant proposes that there will be no change from its current state in any form which is visible to the public. There are no proposed changes to the landscaping or lighting, and no increased noise levels. The property is currently developed below the allowable built upon area (BUA) limit within the WS-IV CA Jordan Lake watershed district. Approximately 0.17 acres is BUA out of the approximate 1.93 acres that would be permitted.

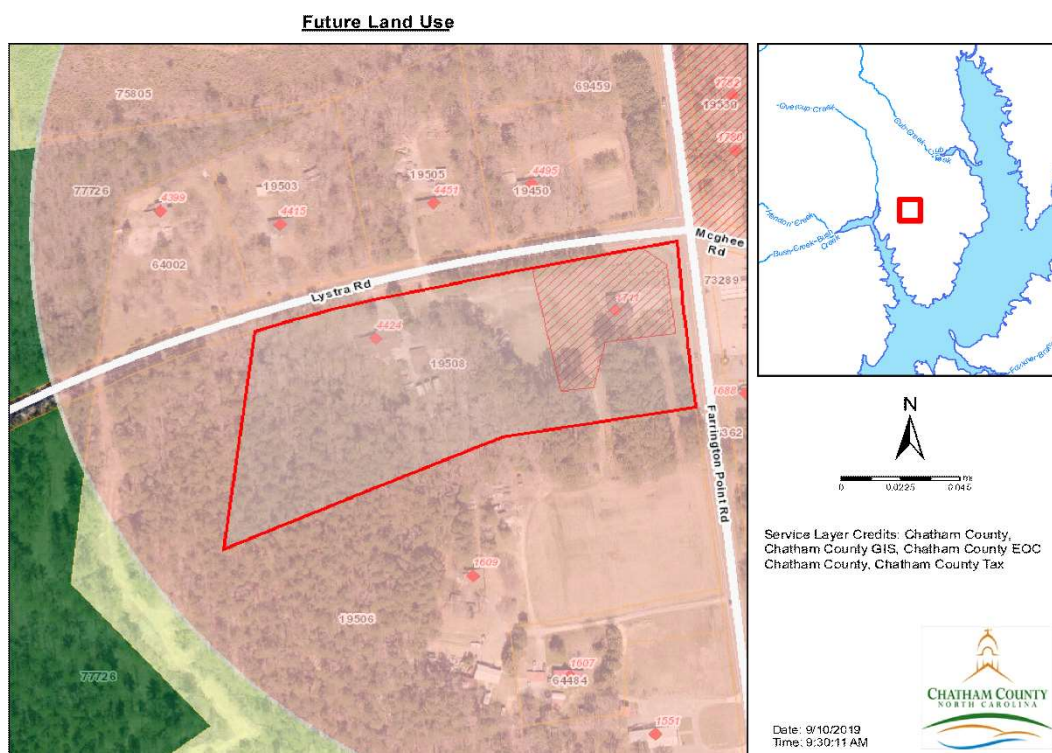


*The map above shows the Watershed District of WSIV-CA within the Jordan Lake Buffer rule area.*

*Impervious surface is limited to 24%.*

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

**Finding 4 - The requested permit will be or remain consistent with the objectives of the Plan Chatham comprehensive land use plan.** The use currently occurring on the property will continue. Economic Development Policy 6, page 57, supports entrepreneurship and new businesses that diversify the local economy and capitalize on the unique assets of Chatham County. As stated in the Comprehensive Plan, page 58, this revision will support development that leads to the co-location of compatible uses that, together, create destinations in the county. This property is located entirely within a Crossroads Community node in the Future Land Use and Conservation Plan Map. These areas have a minimal amount of retail with limited supporting retail.



*The map above shows the Future Land Use and Conservation Map and the property is located in an area identified as Crossroads Community. 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.*

**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.** No changes are proposed aside from the change in the approved permit

to remove the word 'specifically' and add an additional use for retail and personal services. All utilities, road access, landscaping and other required site specific details will continue to be in compliance with county regulations. **It is planning staff opinion this finding has been met.**

The Planning Board discussed this item during their October 1, 2019 meeting and discussion included that there is a request to amend the Watershed Protection Ordinance being processed concurrently with this application, that the amendment is specific to this property, the amendment would allow the owner greater flexibility to use the existing commercial building, and that the owner has had difficulty for several decades in leasing the building due to the strict limitations on allowed uses. Staff commented that there is a Watershed Protection Ordinance being processed concurrent with this application and was being reviewed by the Watershed Review Board. The Planning Board recommended by unanimous vote to approve the requested amendment.

**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 entirely within a Crossroads Community node in the Future Land Use and Conservation Plan Map that was adopted as part of the comprehensive plan. The description for Crossroads Community includes a "mix of uses include single-family residential, some agriculture support services, limited supporting retail, and institutional uses. Smaller than villages, these communities are within rural areas and typically have a minimal amount of retail and institutional uses".

### **Recommendation:**

The Planning Board recommends approval by unanimous vote (9-0) to the Board of Commissioners adoption of a resolution approving a quasi-judicial request by Ernest Clemons for a conditional use permit revision on Parcel No. 19508, located at 1711 Farrington Point Rd., to add the additional use of retail stores and personal service shops similar to those listed dealing in direct consumer and personal services. The following conditions are provided for consideration if recommended for approval:

### **Site Specific Conditions**

1. The following uses are added to the conditional use permit: retail stores and personal service shops similar to those listed dealing in direct consumer and personal services.
2. The following use is revised to read: retail stores and personal service shops for the sale, servicing, and utilization of computers, e-mailing, public Internet access, and computer consulting for individuals and small businesses.
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 entirety 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.