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**A RESOLUTION APPROVING AN APPLICATION FOR AN  
AMENDMENT TO A CONDITIONAL USE PERMIT  
REQUESTED BY Christopher M. Fortunes, dba Evergreen  
Companies, Inc.**

**WHEREAS, Christopher M. Fortunes, dba Evergreen Companies, Inc.** has applied to Chatham County for a revision to the existing Conditional Use Permit (CUP) for a landscaping business, lawn and garden shop, and florist shop located on Parcel No. 71030, at 11115 US 64 E, New Hope Township; and

**WHEREAS,** the Chatham County Board of Commissioners based upon the competent, substantial and material evidence in the record, including, without limitation, the Applicant's written materials and new site plan as submitted, all of which are incorporated herein by reference, hereby continues to find as approved in the original conditional use permit request:

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 property continues to have a permitted Conditional Use B-1 District and these uses are permitted in the business district.
2. The requested conditional use permit is either essential or desirable for the public convenience or welfare. This fact was supported in the original approval.
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. A revision to the site plan for more vegetative screening, relocation of the septic field, and relocation of a parking area have been approved on the revised site plan to further buffer the adjoining property line areas and better screen the storage area from public view from the roadways.
4. The requested permit is consistent with the objectives of the Land Development Plan. This has been supported by the previous approval of the Conditional Use B-1 Business District.
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. A new type of septic system has been designed and the location of the system has moved to another location on the western side of the property. Parking

in front of the building has been eliminated and more vegetative screening has been approved between the adjacent property and view from the public roadway for material storage.

**NOW, THEREFORE, BE IT RESOLVED BY THE CHATHAM COUNTY BOARD OF COMMISSIONERS** as follows:

That an amendment to the 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 an amendment to the conditional use permit in accordance with the plan of Christopher M. Fortunes dba Evergreen Companies, Inc. attached hereto and incorporated herein by reference with specific conditions as listed below:

**Site Specific Conditions:**

1. Landscaping shall be installed as directed by the Appearance Commission and as directed by the Board of Commissioners with plantings to be installed within this Spring season and as per the revised site plan. In addition to the revised plan, landscaping shall include but is not limited to an extension of trees and plants as approved by the Appearance Commission around the original natural area and septic area noted on the original site plan from the rear, along the side, and across the front to shield views of mulch and other landscaping materials to be stored in that location. There is to also be a 2<sup>nd</sup> row of plantings on the rear of the property line extending past the existing nursery area where it adjoins the adjacent property line.
2. One 4 x 8 foot monument style sign, as built, shall remain as originally approved. No other signage will be permitted.
3. Fencing shall be installed around the area noted as "plant inventory" as shown on the revised site plan.
4. The construction and certificate of occupancy on the existing structure shall be complete and issued within 12 months from the date of this approval by the Board of Commissioners or a timely filed request for an extension be approved prior to the expiration of this conditional use permit.

**Standard Site Conditions:**

5. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Erosion & Sedimentation Control, Environmental Health Division, etc.) shall be obtained and copies submitted to the Planning Department prior to the issuance of a certificate of occupancy.
6. Lighting shall be installed and maintained as per the adopted lighting regulations located in Section 11A of the Chatham County Zoning Ordinance. Any lighting

or fixtures found to be non-compliant with the regulations shall be replaced at the expense of the landowner/operator and shall hold no liability against Chatham County for the compliance measures.


7. An "as-built" impervious surface calculation shall be submitted to the Planning Department prior to issuance of a certificate of occupancy.
8. Parking shall meet Section 12 Off-Street Parking and Loading of the Zoning Ordinance which requires one space per 300 square feet of gross floor area.
9. Off-site improvements required by NCDOT or any other agency shall be constructed at no cost to Chatham County.
10. A building permit shall be obtained and remain valid at all times or this permit shall become void.

**Standard Administrative Conditions:**


11. 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. Nothing in this paragraph shall require the applicant to indemnify and hold the County harmless from any losses or costs associated with defense of the County's actions or procedures in considering and acting upon this application.
12. 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.
13. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued determination with the plans and conditions listed above.
14. Non-Severability - If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
15. 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 an amendment to the conditional use permit in accordance with the plans and conditions listed above.

Adopted this the 19<sup>th</sup> day of May 2008

By:   
George Lucier, Chairman

ATTEST:

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