



**CHATHAM COUNTY
BOARD OF COMMISSIONERS
AGENDA ABSTRACT**

ITEM NUMBER:
MEETING DATE:
8-18-08

PART A

Subject:

A request by **Richard Weston-Jones** for a text amendment to the Chatham County Zoning Ordinance, **Section 10**, Item/s 10.1 RA-5; 10.2 RA-90; 10.3 RA-40 residential/agricultural lists of permitted uses specifically for “bed and breakfast inns” to add additional language to say “an owner occupied and operated home Bed and Breakfast with no more than two rooms (units) for rent with a minimum lot area of one and one half (1.5) acres” be permitted. Also add to **Section 14** Neighborhood Home Occupations (A) “owner-occupied and operated home Bed and Breakfasts with no more than two rooms (units) for rent with a minimum lot area of one and one half (1.5) acres.

Action Requested:

See Recommendations.

Attachments:

The following was submitted prior to the July 21, 2008 public hearing and may be reviewed on the Planning Department website under “Rezoning & Subdivision cases, 2008:

1. Application packet

The following additional information may be reviewed on the Planning Department website:

2. Comparison of B&B standards in surrounding counties dated July 21, 2008 provided by Mr. Weston-Jones

Submitted By:

Keith Megginson, Planning Director

Date

County Manager Review:

Charlie Horne, County Manager

Date

This abstract requires review by:

County Attorney

Date Reviewed

Finance Officer

Date Reviewed

Budget Officer

Date Reviewed

PART B

Introduction / Background / Previous Board Actions:

(Results from the Planning Board can be seen in the bold, italicized wording)

A legislative public hearing was held on July 21, 2008. The applicant was the only person who spoke on the issue.

The Planning Board held their regularly scheduled meeting on August 5, 2008. A vote of 9-0 to approve this request as recommended by staff was made.

Mr. Weston-Jones lives at 250 Amber Wood Run, Parcel No. 74003 on approximately 1.71 acres. He wants to operate an owner-occupied bed and breakfast on this property. However, current zoning ordinance regulation does not allow bed and breakfast businesses on less than 3 acres. Section 10.1, 10.2, and 10.3 of the residential/agricultural zoning district allow bed and breakfast businesses with up to six rooms for rent as permitted uses without benefit of conditional use approval.

Issues for Further Discussion and Analysis:

Mr. Weston-Jones submitted a comparison from surrounding counties that outline how they handle bed and breakfast businesses. The applicant also stated the State of North Carolina also makes a separation between the number of rooms for rent that constitutes a home business and what would be considered an “inn”. North Carolina Public Health General Statute 130A-247 defines a bed and breakfast inn as a business of not more than 12 guest rooms that offer bed and breakfast accommodations to at least nine but no more than 23 persons per night for a period of less than one week, and that:

- a. Does not serve food or drink to the general public for pay;
- b. Serves only the breakfast meal and that meal is served only to overnight guests of the business;
- c. Includes the price of breakfast in the room rate; and
- d. Is the permanent residence of the owner of the manager of the business

It goes on to say in Statute 130A-248 the protection of the public health governing sanitation of private homes offering bed and breakfast accommodations are limited to eight or fewer persons per night. Mr. Weston-Jones is proposing an additional category be adopted into the zoning list of permitted uses to include the “home” type business as described, with a minimum acreage requirement of 1.5 acres, and with standard residential setbacks from property lines. Staff consulted with Attorney Rose to see if there would be any legal repercussions to adding additional wording by staff to make a distinction between the two uses. He advised we could make a stricter requirement or add “clarifying” language but anything else would be required to go to public hearing.

The applicant’s property is located within an RA-90 zoning district. This district was created requiring a 90,000 square foot lot size primarily for low density residential development in an effort to protect the University Lake watershed in March 1999. Between 1995 and 1999 the Commissioners at that time changed the zoning classification back and forth between RA-40 and RA-90 making the last change in March 1999. The applicant’s lot was created in the Price Creek subdivision when the zoning classification was RA-40 making the lot now a legal non-

conforming lot of record. Other permitted uses in this particular district that do not require larger lots are accessory dwellings, family care homes limited to no more than six persons, guest house, garage apartments, home occupations (neighborhood), temporary construction trailers, and two family dwellings. The current category in the residential district's list of permitted uses that closely relates to this request is bed and breakfast inns with no more than six rooms for rent.

This use could yield 12-14 (12 visitors and 2 owners) person occupancy where the applicant's request could yield a maximum of six (6- 4 visitors and 2 owners).

The applicant also stated at the public hearing he had made an error in the wording for the text amendment to Section 14 of the Zoning Ordinance for Neighborhood Home Occupations. He stated the wording should have been "home bed and breakfast operator". Commissioner Lucier asked for a legal interpretation from Interim Attorney, Jep Rose, to say whether the change in wording at this point would be considered a significant change that would require a withdrawal of the application and a resubmitted request. Attorney Rose stated it would not and the application was still valid and they could proceed. Staff thinks that if the added language is approved in the list of permitted uses for the residential districts, there is no need to change Section 14 Neighborhood Home Occupations. This section is for those things that are not expressly listed in the list of permitted uses but because of their nature are not large enough for the conditional use rezoning or permitting process.

The applicant also stated at the hearing he understands that if this request is approved and the use is added to the zoning districts described, he would then need to request an amendment to the Watershed Ordinance, Attachment A, List of Permitted Uses for the WSII-BW (Balance of Watershed). Currently a bed and breakfast inn with a minimum lot requirement of three acres is permitted. As a side note, this watershed classification allows development on a 40,000 square foot lot and is not restricted to the 90,000 or five acre requirement as stated in the Zoning Ordinance. There can be two different standards where the stricter would apply.

Recommendation: It is the recommendation of the Planning staff and Planning Board, by vote of 9-0, to approve the text amendment as follows:

Added language for Section 10.1, 10.2, 10.3 List of Permitted Uses of the Chatham County Zoning Ordinance to read:

"Owner-occupied bed and breakfast homes with no more than two (2) rooms/units for rent for stays no longer than seven (7) consecutive days and may be located on legal, non-conforming and conforming lots of record, on at least one and one half (1.5) acres, which may have standard setbacks as set in the district in which it is located".