



## **Chatham County Planning Board Agenda Notes**

**Date: January 8, 2013**

**Agenda Item: VII. 1.**

**Attachment #: 1**

☐ **Subdivision**

☐ **Conditional Use Permit**

☒ **Rezoning Request**

☐ **Other:**

<b>Subject:</b>	Request by Kim and Annette Ringeisen, to rezone property from R-1 Residential to CD-RB Conditional District Regional Business, on Parcel No. 63764, located at 3215 Mt. Gilead Church Rd., approximately 7.14 acres, Baldwin Township, for a special events venue to host weddings, receptions, anniversaries, reunions, company socials, photography, and other similar events.
<b>Action Requested:</b>	See Recommendations.
<b>Attachments:</b>	<ol style="list-style-type: none"><li>1. Application Packet distributed prior to the November 19, 2012 public hearing.</li><li>2. Letter of Support from Heather King</li><li>3. Letter of Opposition from J. Stovall King</li><li>4. PowerPoint of Opposition from Windjam Development Group, LLC</li><li>5. Outline of Opposition from Atty. Jennifer Scott and Atty. Gary Shipman, Shipman &amp; Wright, LLP</li><li>6. PowerPoint of Opposition from Windjam 23, LLC, Sage Built, LLC, and The Hampton Owners' Association, Inc. presented by Jennifer Scott, Attorney</li><li>7. Letter of Opposition from Bill Lam</li><li>8. Chatham County Appearance Commission (CCAC) Minutes from 7/25/12 and 9/26/12</li><li>9. Wade Barber notes</li><li>10. Rex Vick responses to public hearing</li></ol>

### **Introduction & Background**

A legislative public hearing was held on this request November 19, 2012. Speaking were the applicant, Mr. Kim Ringeisen, Mr. Wade Barber, attorney for the applicant, and Attorneys Jennifer Scott and Gary Shipman representing the opposition. Also speaking were Kevin Flynn, William Fisher, David Richardson, Dan Robinson, Sam Petrides, Brad Hart, and Harry Crone.

Some of the concerns mentioned during the public hearing were noise, decrease in property values, appearance of the site during events (i.e. parking, lighting, tents, and traffic), historic preservation, access, and commercial use in residentially zoned district. Some of these issues are discussed further in the information below.

### **Discussion & Analysis**

Conditional Zoning districts are zoning districts in which the development and use of the property is subject to predetermined ordinance standards and the rules, regulations, and conditions imposed as part of a legislative decision creating the district and applying it to the particular property. Some land uses are of such a nature or scale that they have significant impacts on both the immediate surrounding area and on the entire community, which cannot be predetermined and controlled by general district standards. The review process established in this Ordinance provides for accommodation of such uses by a reclassification of property into a conditional zoning district, subject to specific conditions, which ensure compatibility of the use with neighboring properties. A conditional zoning district is not intended for securing early zoning for a proposal, except when that proposal is consistent with an approved land use plan or the proposal can demonstrate that public infrastructure needed to serve the development will be made available within a reasonable time period.

The applicant held the community meeting, which is now required prior to submittal of an application to the Planning Department. Due to a submittal delay, there were two community meetings held, one on July 12, 2012 and one on August 3, 2012 both at the property. Some of the concerns mentioned in the summary report were noise, decrease in property values from the adjacent subdivision, over-flow parking, encroachment of activity onto Lot 18, landscaping, and screening. These same concerns were discussed at the CCAC meeting and the public hearing.

The applicant met with the CCAC on July 25, 2012 where concerns were raised that no additional landscaping had been proposed with the exception of the front of the property facing Mt. Gilead Church Road. They requested the applicant return with a landscaping plan for the rear and sides of the site and to consult with the NC Historic Preservation Office before completing such a plan in case they wouldn't approve the design. The applicant returned on September 26, 2012 with the revised plan which the CCAC approved with minor changes. The requirement to comply with the CCAC recommendations is conditioned below.

There are four items listed in the Zoning Ordinance that must be addressed by an applicant when submitting a rezoning application. The applicant has addressed those items in the application materials and they are also discussed below.

Item #1: The alleged error in this Ordinance, if any, which would be remedied by the proposed amendment with a detailed description of such error in the Ordinance and detailed, reasons how the proposed amendment will correct the same. This application is not alleging any error in the ordinance that would be corrected upon its approval.

Item #2: The changed or changing conditions, if any, of the area or in the County generally, which make the proposed amendment reasonably necessary to the promotion of the public health, safety and general welfare. The applicant has stated in their submittal the changing conditions are that Chatham County is growing and becoming a destination to draw interest for outdoor venues such as weddings and other special events. The submittal does not state what those changing conditions are. This property was platted as part of a proposal to expand residential uses in the area under the approval for the Hamptons subdivision. The property has a historical element that is required to be maintained through the rules and regulations of The Historic Preservation Foundation of North Carolina, Inc. Planning staff contacted their office and they advised they did not have any issues at the present regarding the holding of specialized events on the property provided the historical value was not jeopardized. Ms. Kathleen Turner stated it is a common accessory to a historical site they see often. She stated the local ordinances and plans would govern this type of accessory not them.

Information was provided at the public hearing stating there have already been events held on this site. There have been fundraising events for UNC, weddings, birthday parties, etc. Some of the events held were by the previous owners of the property who subsequently encouraged the applicant to proceed with holding events on the site even though the property was not going to be held to the private covenants enforced on the Hampton's subdivision. If county regulatory agencies had known about the events, a request for rezoning would have been sought, as well as compliance with other regulations.

Planning staff has reviewed development activity in this area and other than the permitting of a self storage facility for Johnny Blair, located at the intersection of Mt. Gilead Church Road and Hatley Road in 2006, there have been no other types of non-residential or commercial development.

Item #3: The manner in which the proposed amendment will carry out the intent and purpose of any adopted plans or parts thereof. The application submittal states the Land Conservation and Development Plan encourages development in order to promote historic assets and tourism. This property is already approved and allowed to promote the historical component. This property is part of the Dr. E. H. Ward historical marker and is open for the public to visit and view the buildings and grounds. This application will neither approve nor remove any existing approvals for that use.

The submittal also states citizens want to be able to utilize these types of properties for other uses as requested with this application. One reason stated is because the county does not have an event center or large hotel. While this is a true statement, both of these examples are for indoor facilities. This request is for an outdoor event venue for specialized events. There are facilities, either existing or approved, in the county that can provide these same types of services for indoor and outdoor venues. Examples are Fearrington Village, Chapel Hill Bed & Breakfast, Shady Wagon Farm, Celebrity Dairy, C and D Events, Windsong Muse, LLC, and two others in the unzoned portion of the county that have indoor and outdoor areas for events.

One of the main policies of the Land Conservation and Development Plan is to guide development

to suitable locations and ensure they are designed appropriately. Based on the number of guest potential (up to 300), planning staff does not feel this property is suited to manage that amount of parking and not be intrusive to the surrounding properties. It was stated by the pastor of Mt. Gilead Church the applicant could utilize their parking lot for overflow which would allow “busing” of guests to the site.

The Plan goes on to define other policies that preserve the form and function of rural character and the protection of open space, recreation, historic and tourism locations. It could be debated whether or not a 200 – 300 person event would be preserving rural character or protecting the already noted historic nature of the site.

Item #4: All other circumstances, factors, and reasons which the applicant offers in support of the proposed amendment. The statement in the application, in planning staff opinion, is supporting the already established historical presence on the site. There does not appear to be any information to support adding an additional use to the site for the commercial/business venture as applied for.

As stated previously, the Zoning Ordinance provides for accommodation of uses by a reclassification of property into a conditional zoning district, subject to specific conditions, which ensure compatibility of the use with neighboring properties. Representatives for the developer of The Hamptons provided additional information in opposition to the rezoning request. A report from Noral Steward with Stewart Acoustical Consultants was provided by Jennifer Andrews which concluded that the proposed use was “not compatible with expectations in residential neighborhoods even if there were a greater degree of buffer space between the activity area and the neighbors.” The report further stated that outdoor event locations 2 and 3 on the site plan would be difficult to meet the provisions of the county noise ordinance.

Sam Petrides, real estate agent with Carolina Preferred Realty, spoke at the public hearing and provided a written letter stating that it in his “opinion that the lots would experience an immediate and dramatic devaluation and some will not sell at all.” A report from Lucy Gallo with Development Planning & Financing Group, Inc. also concluded “If the application for commercial zoning is approved, lots nearest to the Ward’s Hollow project may never build out or sell. The anticipated discount necessary to sell the lots may deflate the comparables of the entire development, thus decreasing the total value of The Hamptons and annual property tax revenue for Chatham County. The proposed commercial spot zone in this otherwise high end residential area has the potential to negatively affect future values.”

It is the staff opinion that the proposed rezoning is not compatible with the surrounding properties. Representatives for the developer of The Hamptons provided information from various professionals indicating that, if approved, the rezoning could have a negative impact on the adjoining properties. The subject property was part of The Hamptons subdivision and at the time of the original sketch plan submittal there was no indication that it would be used for any use other than residential. Information was submitted indicating that special events have been held on the site; however county staff was not aware of the events and would have pursued enforcement action if it had been known.

**RECOMMENDATION**

It is staff opinion that this request be denied. The Planning Board has up to three (3) meeting in which to make a recommendation to the Board of Commissioners. Should the Planning Board recommend approval, a consistency statement on how this request complies with the Land Conservation and Development Plan should be stated and/or listed. Planning staff will incorporate that statement into the recommendation to the Board.

Should the Planning Board recommend approval, staff has provided a set of conditions for review to be included in the recommendation to the Board of Commissioners and/or added to or modified as the Board deems necessary. They are:

**Site Specific Conditions**

1. The recommendations of the Chatham County Appearance Commission shall be followed and implemented by the end of the next optimal planting season following the issuance of this approval. It shall be the applicant's responsibility to ensure the survival and maintenance of all landscaping required. Inspections will be conducted by planning staff and/or the CCAC as needed to ensure compliance.
2. The owner/occupant may continue to reside on the property and utilize the home for their primary residence.
3. No parking is permitted on roadways with the Hampton's subdivision or along Mt. Gilead Church Rd. All parking shall be controlled on-site as shown on the approved site plan or as permitted by other non-residential properties.
4. All open structures used for events (i.e. gazebos, tents, canopies, etc.) shall be located at least 25 feet from any property line at all times.
5. Hours of operation shall be between 7am and 11pm; except private, family events.

**Standard Site Conditions**

6. 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.
7. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Erosion & Sedimentation Control, Environmental Health Division, Stormwater Management, Building Inspections, Fire Marshal, etc.) shall be obtained, if required, and copies submitted to the Planning Department prior to the initiation of the operation/business.
8. A Certificate of Occupancy shall be obtained within two years of the date of this approval unless other approval/s has been given for an extension, or the conditional use permit becomes null and void.

**Standard Administrative Conditions:**

9. 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.
10. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditions listed above.
11. Non-Severability - If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
12. 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.