



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

**Date: February 2, 2016**

**Agenda Item: VIII. 1**

**Attachment #: None**

☐ **Subdivision**

☒ **Conditional Use Permit**

☐ **Rezoning Request**

☐ **Other:**

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<b>Subject:</b>	A request from Darren Eck dba Villa Giallo for a conditional use permit for a Bed and Breakfast Inn with no more than six rooms for rent and as further defined in the Chatham County Zoning Ordinance. The property is located at 4352 Pea Ridge Road, New Hill, NC, Parcel No. 5772, Cape Fear Township.
<b>Action Requested:</b>	See Recommendation
<b>Attachments:</b>	None

### **Introduction & Background**

A quasi-judicial public hearing was held on this request January 19, 2016. Planning staff opened the hearing and the applicant presented the request. Four adjacent property owners also spoke and were all in opposition to the conditional use permit.

The property is currently zoned R-1 Residential and consists of approximately 13.05 acres. More than half of the property, where the current pond and residential structure is located, is within the WSIV-Critical Area Jordan Lake Buffer Watershed. The remainder of the property is located within the WSIV-Protected Area Watershed.

The parcel was created around the 1920s. The applicant purchased the property, filed an updated survey in 2005, and constructed the home around 2007.

### **Discussion & Analysis**

In reviewing and considering approval of a Conditional Use Permit, the Board shall find that all of the following stated Findings of Facts shall be supported. Per the Zoning Ordinance "In considering an application for a conditional use permit 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 of Commissioners should find, after public hearing, the proposed conditional use permit should not be granted, such proposed permit shall be denied." The findings are as follows:

**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. R-1**

Residential Districts allow for an application for a Bed and Breakfast Inn to be applied for as stated in Section 10.13 of the Zoning Ordinance. The definition, as included in Section 7 of the Ordinance, states that a Bed and Breakfast Inn is a “Small owner-operated businesses where usually the owner lives on premises but is not required to do so. The building's primary usage is for lodging of overnight guests and meals served in conjunction with the stay of guests. Inns advertise, have business licenses, comply with government ordinances, pay all appropriate taxes and post signs. The inn may host events such as weddings, small business meetings, et cetera, with up to 6 overnight rooms for rent to overnight guests provided all other local and state requirements are met.”

The owner could operate an Owner-occupied Bed and Breakfast with no more than two rooms/units for rent without requiring a permit from the county.

**Planning staff believes 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 has stated his operation will be a low-intensity commercial operation that will fit into the existing rural agricultural location and offer a more affordable rate than other similar facilities within the county. The applicant further states this proposal would offer more luxurious accommodations and venues than other less expensive venues in the county.

The applicant stated in the application there were no Bed and Breakfast Inns east of Pittsboro or near Jordan Lake. However, Shady Wagon Farm, which obtained an approval in 2008 as a bed and breakfast, event center, training center, and wedding cake bakery is approximately 1.8 miles south of this proposed location. The Shady Wagon Farm property was rezoned to Conditional Use Office & Institutional with a conditional use permit. The Bradford, which is approximately 3.7 miles south of this location, obtained their approval as a bed and breakfast and event center in 2011. The Bradford property was rezoned to Conditional Use Regional Business with a conditional use permit. The applicant provided information obtained from “Cost of Wedding” that these venues stay booked, therefore supporting the need for more available options.

**Planning staff believes this finding may be 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 held a community meeting on November 19, 2015. That report was included in the application packet. Concerns noted were noise, the potential for guests wandering onto neighbor's property, and the transferability of the CUP.

The applicant also presented the proposal to the Chatham County Appearance Commission where additional vegetative plantings were suggested in order to keep the noise level down and help keep visitors on the subject property. The commission recommended approval of the landscaping around the barn that would be constructed to hold events. Lighting was a concern and it was restated all lighting must conform to the lighting regulations of the county zoning ordinance. The applicant provided the proposed lighting fixtures to county staff and it was determined they would comply with the regulations. Lighting would only be used during events per the applicant.

No signage is being proposed for this plan.

The four adjacent landowners who spoke during the public hearing were Dennis Chapman, John Collins, Robert Wilson, and Margaret Dey. The concerns stated were the commercial use of the property would not be in keeping with the rural character of the community. Concerns on noise from events, lights, privacy and the potential for trespassing by guests noting the lot is long but not very wide. Mr. Wilson further stated there have been issues in the past with the applicants animals (cows, chickens) leaving his property and there has also been shooting with air rifles.

The application and the applicant's presentation emphasized the events aspect of the proposal, including the addition of a 3,000 square foot event barn with future plans to expand the barn and add a commercial kitchen. The category is Bed and Breakfast Inn that allows some use for weddings, meetings, etc. The zoning ordinance has a specific category for Events Center Limited that would require a conditional district rezoning. This proposal seems more in line with that category than a bed and breakfast inn.

**Planning staff believes this finding has not been met based on the testimony from the neighboring property owners, being the "community" and lack of support in the application.**

**Finding 4 – The requested permit will be or remain consistent with the objectives of the Land conservation and Development Plan.** The portion of the property where the events would be taking place and the bed and breakfast inn is located within the WSIV-Critical Area Watershed where a maximum of 24% impervious surface is allowed. The applicant meets the LCDP guidelines for the protection of ground and surface waters by developing approximately 8.8% impervious surface. The rear portion of the property under the WSIV-PA allows for up to 36% impervious surface and the proposed is 0%.

There are currently three ponds on the property that capture most of the rainfall that falls on the land and may be used in connection with the increased impervious surface. A review from Land and Water resources will be needed if this request is approved.

This application also supports the need to support travel and tourism as stated in the plan by providing an additional venue for services already being sought in this portion of the county.

**Planning staff believes this finding may be 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 site is served by the county water system and will continue to do so. Private septic is currently used for the residence and an additional system that will support up to 200 people is anticipated to be applied for.

A preliminary approval has been provided by NCDOT for a commercial driveway permit. The applicant has also obtained a letter from the Department of the Army stating they would not limit the issuance of a commercial driveway permit for the applicant’s property. The property does not have direct road frontage but crosses Corps of Engineer’s property.

Excess traffic related to the business will be mainly on weekends.

**Planning staff believes this finding may be met.**

Based on the application materials, the testimony provided at the public hearing, and all other information as provided in these findings, it is Planning staff belief all findings have not been met and therefore the application should be recommended for denial.

### **Recommendation**

The Planning Board has up to three meetings in which to make a recommendation for approval or denial to the Board of Commissioners. Should your recommendation be for approval, a review of the below conditions is also required.

#### **Site Specific Conditions**

1. Any outdoor events associated with the commercial use of the property for the Bed and Breakfast Inn or the barn shall end by 11:00 pm. Lighting shall only be used during an event in connection with said events and shall be turned off within one hour following the end of said event.
2. The recommendations by the Chatham County Appearance Commission shall be followed and implemented at the next optimal planting season following the beginning use of the property for events.
3. No permanent signage has been approved for the site. Signage regulations in the Zoning Ordinance shall be complied with.
4. A building permit for the accessory event barn shall be obtained within two years from the date of the approval and shall remain valid at all times. Failure to obtain said permits or failure to begin the bed and breakfast portion of the business, shall nullify this approval and therefore it will no longer be a valid approval.

**Standard Site Conditions**

5. 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.
6. 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:**

7. 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.
8. Continued Validity – The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditional listed above.
9. Non-Severability – If any of the above conditions is held to be invalid, this approval in it's entirety shall be void.
10. 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.