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Vote on a request to approve 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.

..ABSTRACT

Action Requested:

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.

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

The Planning Board reviewed this request at their February 2, 2016 regular meeting. Based on the amount of opposition from adjacent landowners, Mr. Eck stated his main focus is the use of his home as a Bed and Breakfast Inn as defined in the Zoning Ordinance. He was willing to remove the event center barn as described in the application. The Planning Board thought that was a reasonable compromise but thought the public hearing should be re-opened so that the adjacent landowners would have notice of the change.

Planning staff presented the matter at the Board of Commissioner's work session on March 7, 2016 and a new public hearing date was set for March 21, 2016.

The second public hearing was held March 21, 2016. Planning staff presented the request and updated the Board on what had changed with the application. The applicant was present and also reconfirmed that his main request is to be approved for the bed and breakfast inn and therefore he has removed the barn, lighting, and parking from the site plan. Three adjacent landowners spoke and expressed concerns about his stewardship of maintaining the property, possible negative effects to property values, and what the expected noise levels would be if a guest of the bed and breakfast inn held a wedding or other similar gathering on the property.

The Planning Board met at a second meeting on April 5, 2016 and their recommendation for approval is noted below.

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 a conditional use permit 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.

It is Planning staff opinion this finding is met based on the regulations and standards outlined in the Zoning Ordinance.

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 business 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. **Planning staff recently learned the Bed and Breakfast is no longer being utilized but the event venue is.** The Shady Wagon Farm property was rezoned to Conditional Use Office & Institutional with a conditional use permit for the events venue portion of the property. 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 for the Event Venue use. The applicant provided information obtained from "Cost of Wedding" that these venues stay booked, therefore supporting the need for more available options.

The applicant has removed the event center barn and will focus solely on operating the B & B Inn as defined in the Zoning Ordinance, which still allows events for guests to be held on the property.

It is Planning staff opinion this finding is met and complies with the regulations and standards outlined in the Zoning Ordinance.

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.

During the Planning Board discussion and in conversations with the adjacent landowners with planning staff, it appears the biggest concern was the amount of activity that would have been associated with the event center barn and not the B & B Inn. The potential for high activity has been reduced with the removal of the event center barn by the applicant.

The applicant also presented the proposal to the Chatham County Appearance Commission. A new site plan will need to be submitted showing the removal of the barn, lighting, and parking areas. Any additional landscaping that was recommended will still be required and should be shown on the revised site plan. No signage is being proposed for this plan.

The four adjacent landowners who spoke during the first 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 about noise from events, lights, privacy and the potential for trespassing by guests, noting the lot is long but not very wide. At the second public hearing on March 21, 2016, Mr. Chapman, Mr. Wilson and Mrs. Dey spoke noting continued concerns over noise and the level of activity that could be associated with a wedding event for one of the guests. Mrs. Dey stated she felt better about it with the removal of the the accessory structure previously proposed.

It is Planning staff opinion this finding is met based on the regulations and standards of the Zoning Ordinance and as further supported in the recommended conditions noted below.

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 the bed and breakfast inn (applicant's home) is located is within the WSIV-Critical Area Watershed where a maximum of 24% impervious surface is allowed. This project would be less than 5%. The rear portion of the property under the WSIV-PA allows for up to 36% impervious surface and no impervious area is proposed in this area.

There are currently three ponds on the property and no changes are proposed to those features. Since the maximum impervious surface area is not being utilized, there is additional area available should any be needed in order to provide parking for the room rentals. A final review by the Land and Water Resources Division will be required 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.

It is Planning staff opinion this finding is met based on the regulations and standards of the Zoning Ordinance and further conditions as outlined below.

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 be connected to the system. Private septic is currently used for the residence. Environmental Health will conduct an evaluation of the system to ensure it will support the B & B Inn and advise the owner accordingly. For special events associated with guest rentals, the owner may utilize portable restrooms as required by building inspections and environmental health regulations. A special events application

must be submitted and approved before any events take place on the property in connection with the guest of the B & B.

A preliminary approval has been provided by NCDOT for a commercial driveway permit. The applicant has also obtained a letter from the US Army Corps of Engineers 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 is anticipated to be mainly on weekends.

It is Planning staff opinion this finding is met based on the regulations and standards of the Zoning Ordinance and as further supported by the below conditions.

Based on the application materials, the testimony provided at the public hearings, and all other information as provided in these findings, it is Planning staff opinion all findings are met and therefore the application should be recommended for approval with the conditions provided in the recommendation.

During the Planning Board meeting on April 5, the board members discussed possible noise issues with events that could be held by guests of the B&B Inn; outdoor lighting and regulation of temporary lighting; and possible restrictions on the number of people or vehicles on the property. A motion to deny the conditional use permit failed by a vote of 2-7. Discussion continued noting that some members did not think a B&B Inn was a high impact use; this supported small, home based businesses; and the removal of the event barn was an improvement. Other members noted that the county should use caution in making changes in residential areas of the county and could see events on the property causing problems.

Recommendation:

The Planning Board, by a vote of 7-2, recommends approval to the Board of Commissioners and adoption of a Resolution Approving a Conditional Use Permit with the following conditions:

Site Specific Conditions

1. Any outdoor events associated with the commercial use of the property for the Bed and Breakfast Inn shall end by 11:00 pm. Temporary lighting shall only be used during an event 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.

3. No permanent signage has been approved for the site. Signage regulations in the Zoning Ordinance shall be complied with.
4. Failure to begin the bed and breakfast inn within two years from the date of this approval, shall cause this permit to become null and void.
5. A revised site plan shall be provided to and approved by planning staff prior to starting the B&B Inn.

Standard Site Conditions

6. The application, standards and adopted regulations of the applicable ordinances and policies, and the stated conditions of approval shall be complied with by the applicant. 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.
7. 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:

8. 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.
9. Continued Validity – The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditional listed above.
10. Non-Severability – If any of the above conditions is held to be invalid, this approval in it's entirety shall be void.
11. 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.