EDENTON-CHOWAN
INSPECTIONS AND PLANNING DEPARTMENT
P.O. Box 1030, Edenton, NC 27932
305 West Freemason Street, Edenton, NC 27932
PHONE 252-482-5618 FAX 252-482-5697

Chowan County Planning Board
August 26, 2014
Chowan County Public Safety Center
305 West Freemason Street
7:00 pm

Planner Landin Holland called the roll; Patti Kersey, Lou Sarratt, Bobby Winborne, and Jim Robison were present. Jim Leggett, William Monds, and Mike Williams were absent.

Mr. Holland asked if there were any corrections or additions to the minutes of the July 29, 2014 meeting.

Mr. Robison moved that the minutes be approved as submitted. Ms. Kersey seconded the motion. The motion carried unanimously.

Mr. Sarratt mentioned that there were some comments in the minutes where the speakers from the audience were unknown.

Mr. Holland stated that in the future it would be noted who the speakers were so it could be put in the minutes.

Mr. Holland opened the floor to public comment. There being none, the public comment period was closed.

Mr. Holland presented a text amendment to establish the use of Department Variety or General Merchandise as a special use within the A-1 zoning district. Mr. Holland stated that there was a Dollar General and a Family Dollar that want to locate along Virginia Road (Highway 32) within the A-1 zoning district. Mr. Holland stated that the text amendment was to add Department Variety or General Merchandise as a Special Use within the A-1 district. Mr. Holland stated that would allow a Family Dollar or Dollar General to locate anywhere within the A-1 zoning district with the issuance of a Special Use Permit.

Mr. Sarratt asked if there was a way to specify that the location be in the A-1 district along Highway 32 and not just anywhere in the A-1 district.

Mr. Holland stated that it could be framed that way but not as the amendment is written at this time. Mr. Holland stated that he could word the amendment that way but that it would not be able to be voted on at this meeting.

Mr. Holland stated that if a business wished to locate in a less than desirable location, the Special Use Permit process would require that the neighboring property owners be notified and that the neighboring property owners would have an opportunity during the public hearing to express any concerns that they have as far as impacts on their property and property values and that should result in a denial of the Special Use Permit if those concerns are founded.

Mr. Holland stated that the concern he had with the current text amendment was that it didn't address size. He stated that as it is worded now, a Walmart could potentially locate in the A-1 district and that he would prefer that the Board of Commissioners have the final sign off on a business of that size. Mr. Holland stated that with a Special Use Permit, which is what is proposed in the current text amendment, the Planning Board had the final sign off.

Ms. Kersey asked for clarification on why other retail uses (as listed in the Permitted Use Table) only required a zoning permit and not a Special Use Permit.

Mr. Holland stated that generally those uses don't impact surrounding properties like a true general or variety store would.

Mr. Robison stated that he agreed that a department variety or general merchandise store should require a Special Use Permit and have to come before the Board and have a public hearing.

Mr. Robison moved that the board recommend approval of the text amendment as presented. Mr. Sarratt seconded the motion.

Mr. Sarratt stated that the County would just be establishing a process for which a business who wanted to locate within the county would have to go through in order to open a business of that kind (Department Variety or General Merchandise). Mr. Sarratt stated that they were not changing any ordinances.

Mr. Holland stated that he understood Ms. Kersey's concerns and that he could e-mail copies of the Permitted Use Table to the Board members and they could review them and decide if certain uses should require more than just a zoning permit and that could be discussed at the next meeting.

There being no further discussion, Mr. Holland called for a vote. The Board recommended approval of the text amendment unanimously.

Mr. Holland noted the next item on the agenda, the discussion of establishing temporary events at 125 Country Club Drive. Mr. Holland stated that, after discussion with his boss

and colleague, he had determined that the County could not tell the Country Club that they could not hold events. Mr. Holland stated that is the nature of the use of the County Club property and that is what they do, hold special events. Mr. Holland stated that the Country Club would be subject to the noise ordinance as it is written. Mr. Holland stated that in looking at the R-25 and R-15 zoning districts, there were very few if any commercial operations and that it is mostly housing. Mr. Holland stated that he was proposing to amend the permit that was issued at the last meeting to the owners of Athol Plantation to include basic conditions that would have to be abided by for special events. Mr. Holland stated that would generally entail parking, noise, possibly the number of people, and fire code issues. Mr. Holland stated that he felt that those issues could be dealt with in an amendment to the issued permit. Mr. Holland stated that if any of those regulations were violated then the permit would be pulled not only for the special events but for the bed & breakfast as well. Mr. Holland stated that the amendment to the Special Use Permit would have to be advertised and another public hearing held and that it would not be voted on at this time. Mr. Holland stated that he would draft some conditions for the Board and the applicant to review as well as the Fire Chief and the Sheriff. Mr. Holland stated that the Board would then come to next month's meeting with a basic set of parameters and go from there.

Mr. Robison stated that it was his understanding that if there was no appeal within 30 days of the approval of the Special Use Permit, then the permit was approved.

Mr. Holland stated that the bed & breakfast was approved.

Mr. Robison stated that he felt like the other issues were already regulated by existing ordinances. Mr. Robison stated that he was opposed to having any further rules and that if anything got out of hand then the Sheriff could be called.

Mr. Holland stated that they would be establishing some basic conditions that protect the neighborhood from some concerns that were brought up at the last meeting.

Ms. Kersey stated that she felt that the Board should move forward with amending the permit to add specific conditions.

Mr. Holland stated that he felt that the adjoining property owners should be notified and that everyone should get together and try to come up with a process. Mr. Holland stated that if the Board then decided that the permit was fine the way it was approved, then so be it.

Mr. Sarratt stated that he felt like an amendment to the permit would make anyone who used the property for their event aware of what they could and could not do on the property. Mr. Sarratt stated that he felt like the owners of the property were responsible for controlling whatever went on at the property.

Mr. Holland stated that if the permit was amended with specific conditions then any concerns that were raised regarding violations of the conditions would trigger another

meeting and the people who had the concerns would have to come to the meeting and state their concerns.

Ms. Kersey asked how the owners would enforce the conditions of the permit.

Mr. Sarratt stated that it was the owner's responsibility not to book events that were larger than what they and the property could handle.

Mr. Robison stated that every bed & breakfast held special events and that he didn't think that special events needed to be handled separately from the bed & breakfast.

Mr. Stonebraker asked if Pembroke Hall, located within the city limits, had guidelines that they had to follow regarding special events. Mr. Stonebraker stated that they would be glad to follow those guidelines.

Mr. Holland stated that Pembroke Hall was located in Downtown Edenton and that the guidelines that they had to follow were basically the same issues that Athol Plantation was dealing with.

Ms. Kersey asked for clarification from Mr. Robison that he objected to creating a new ordinance and was not in favor of amending the permit.

Mr. Robison stated that he was in favor of letting the permit stand as it is and not amending it.

Ms. Kersey stated that the permit had to be amended to address the issues that were brought up such as parking, noise, etc.

Mr. Robison stated that there was nothing to amend and that the issues were covered by other ordinances already in place.

Ms. Kersey asked Mr. Holland if he felt that the issues were covered by the existing ordinances.

Mr. Holland stated that the language was vague but that he would not say that the issues were not technically covered. Mr. Holland stated that it depended on how the language was interpreted.

Mr. Sarratt asked if the permit was not amended if the owners would be allowed to hold special events.

Mr. Holland stated that he would struggle with allowing the special events since it is not defined as a use in the zoning ordinance.

Mr. Robison stated that there was nothing in the zoning ordinance that said that the owners could not hold special events.

Mr. Holland stated that the Chowan County Zoning Ordinance was a permissive ordinance. Mr. Holland stated that if the Zoning Ordinance did not say that you can do something, then you cannot do it. Mr. Holland stated that if you looked at bed & breakfast in the Zoning Ordinance there was no mention of holding special events. Mr. Holland stated that he would look at a gathering such as a wedding with 180 people as a zoning violation because it is not addressed in the Zoning Ordinance.

(tape ended, had to be flipped)

Mr. Robison moved to leave the permit as approved with no amendment. The motion died for lack of a second.

Ms. Kersey moved that the permit be amended to include conditions on parking locations (on-site or approved off-site location), noise (when it is an issue as far as time) , number of people (if necessary), & fire code provisions.

Mr. Robison stated that each one of those issues was affected by an existing ordinance.

Mr. Holland stated that the parking issue was not addressed.

Mr. Robison stated that he thought the parking issue was addressed in the Special Use Permit where it was stated that parking had to be provided on-site.

Mr. Holland stated that special events were not addressed by the permit because they were not addressed in the Zoning Ordinance.

Mr. Robison stated that Country Club Drive had covenants and that a bed &breakfast on Country Club Drive is not allowed. Mr. Robison stated that the president of the Country Club Drive Boat Basin Association should be able to address that.

Mr. Holland stated that covenants are often difficult to enforce because it usually falls to volunteers.

Mr. Robison stated that the Boat Basin Association had agreed to have the bed & breakfast there even though it does not comply with the covenants of the Boat Basin Association. Mr. Robison stated that someone having a for-profit wedding with 180 guests was not allowed by the covenants and that the Boat Basin Association would take care of that violation. Mr. Robison stated that it was not a problem for the Planning Board or the county.

Mr. Holland stated that the purpose of the amendment would be to address the root issue of the problem that was brought to the Board by the public that live in that general area. Mr. Holland stated that the amendment would directly mitigate the negative impact.

Mr. Robison stated that the owners have already stated that the problem with the large wedding that generated the complaints was that they did not take control of that event. Mr. Robison stated that the owners knew that now and that they have stated that they were going to take control of the events from now on. Mr. Robison stated that the County did not need to make a law for that and that the owners would take care of that issue.

Ms. Kersey stated that the County was not making a new law but that they would be amending the already approved Special Use Permit.

Mr. Holland stated that basic conditions would be attached to the Special Use Permit to regulate special events held on the property. Mr. Holland stated that before an event was held the owners would have to come into the Planning Department and let the County know that they are having an event and that as long as all the conditions were met then everything would be fine. Mr. Holland stated that if any complaints were received then it would have to be determined if the complaints were founded or unfounded. Mr. Holland stated that the amendment would give the County tools to work with to manage the situation regarding special events.

Mr. Sarratt stated that the Board wanted to establish a process and make sure that the owners understood the boundaries for special events. Mr. Sarratt stated that the amendment would make set/established rules that deal with special events.

Mr. Holland stated that the owners would have an opportunity to review the conditions and disagree with them or not accept them. Mr. Holland stated that the noise issue was always difficult to enforce and that would be something that he would work on before the next meeting.

There being no further discussion, Mr. Holland called for second to Ms. Kersey's motion. Mr. Winborne seconded the motion. The motion carried 3-1 with Mr. Robison opposing.

Mr. Holland stated that the amendment to the Special Use Permit would be advertised and letters sent to the adjoining property owners. Mr. Holland stated that the hearing would be quasi-judicial and that the Board should not be talking to anyone regarding the amendment prior to the meeting.

Mr. Holland noted the next item on the agenda, an update on the Riversound Phase II discussion. Mr. Holland stated that the Board of Commissioners wants a development agreement in line with what the petitioners have asked for. Mr. Holland stated that the Commissioners are asking for everything that has been requested and seeing what is received from the developers in the development agreement. Mr. Holland stated that the Commissioners meeting will be on September 15th at 5:30 and the Planning Board meeting will be on September 16th. Mr. Holland stated that he was hoping that if the Board of Commissioners approves the text amendment on the 15th then the Planning Board will hear the two Special Use Permits on September 16th. Mr. Holland stated that there was no legal or statutory requirement (per County Attorney John Morrison) that the

development agreement for Riversound Phase II go to the Planning Board before it goes to the Board of Commissioners. Mr. Holland stated that the County cannot force the development agreement to go before the Planning Board and that the developers would push back if the County tried to force that issue. Mr. Holland stated that if the development agreement is approved on the 15th, then that would lay the foundation for what will be done about the petition to rezone Riversound Phase II. Mr. Holland stated that if the development agreement is adopted it will be because there is support across the board from the Commissioners and the petitioners. Mr. Holland stated that if the development agreement is not adopted then the County would be right back where they started. Mr. Holland stated that he is getting indications that any points of contention can be worked out.

Ms. Kersey asked for confirmation that the development agreement would be submitted to the County before the public hearing.

Mr. Holland stated that was correct. Mr. Holland stated that the legal advertisement would be run on September 3rd and September 10th so the development agreement had to be (by law) received by the County by September 3rd for review.

Mr. Sarratt asked if the Board of Commissioners would be made aware of the Planning Board's concerns.

Mr. Holland stated that the Commissioners have read the minutes from the Planning Board meetings.

Mr. Holland stated the concerns were to require the 10 acre lots, get the roads to 20 feet in width, and get the cul-de-sacs adequate to allow the turnaround of a fire truck. Mr. Holland stated that commercial sales at the marina was not on the plan that was platted.

Ms. Kersey asked where Mr. Holland got "commercial sales" at the marina.

Mr. Holland stated that was just a generic way to describe it. Mr. Holland stated that he has asked if that meant selling ice and sodas or selling slips to people who do not live in Riversound and that it could mean both.

Ms. Kersey stated that she was under the understanding from Coastal Area Management Association (CAMA) that if it is a private gated community and it is indicated as being that in their covenants that it was not legal for them to sell slips to someone who doesn't own a piece of property in the development.

Mr. Holland stated that there were two different levels of permitting in regard to that.

Ms. Kersey stated that if the developers were selling slips to people who don't own property in the development then it would be called a commercial marina.

Mr. Holland stated that residential marinas are permitted as an accessory to a residential community.

Ms. Kersey stated that it was important to understand that when the developers say that they may sell slips to people in the general public that they can't do that because it is a private gated community. Ms. Kersey stated that she thought that the Commissioners should be made aware of that.

Mr. Holland stated that the Zoning Ordinance did differentiate between commercial and accessory to a subdivision. Mr. Holland stated that development agreement is about the lots and layout and the marina is a separate issue. Mr. Holland stated the marina is part of the development but it will be permitted independent of the subdivision.

Ms. Kersey asked if the County would permit it if the developers decided to sell slips to the general public.

Mr. Holland stated that the County would not permit that without the approval from CAMA.

Ms. Kersey stated that she was told by CAMA that in this type of situation where there is a marina as part of a gated community that is all up front when people buy their lots because the Homeowner's Association (HOA) is going have dues associated with that. Ms. Kersey stated that Mr. Franklin stated that the reason why the developers didn't do that for Phase I (mention the marina) is because they didn't want to over represent themselves. Ms. Kersey stated that it was her understanding that if they were going to have a marina in a private gated community it was for the people who live there.

Ms. Kersey asked if the roads had to be paved.

There being no further business, the meeting was adjourned.