



REQUEST FOR BOARD ACTION

ITEM NO. 1a.

DATE OF MEETING: September 19, 2011

REQUESTED BY: Benjamin Andrea, Planner II, Planning & Community Development

SHORT TITLE: Resolution to Approve a Special Use Permit (SUP) for the Operation of a Sweepstakes Center.

BACKGROUND: Randy Griffin, applicant, on behalf of J. W. Hampstead LLC, owner, is requesting approval of a Special Use Permit (SUP) for the operation of a Sweepstakes Center within an existing business at 15489 US Highway 17, Hampstead. The property may be identified as Pender County PIN 3293-10-5569-0000 and is currently zoned GB, General Business, and internet sweepstakes businesses are permitted via SUP in the GB zoning district.

SPECIFIC ACTION REQUESTED: To hold a public hearing and consider the approval of a Special Use Permit for a Sweepstakes Center.

RESOLUTION

NOW, THEREFORE BE IT RESOLVED by the Pender County Board of Commissioners that:

the Board hereby (approved, modified, denied) a special use permit for a sweepstakes center, as described herein. The Chairman/County Manager is authorized to execute any/all documents necessary to implement this resolution.

AMENDMENTS:

MOVED _____ SECONDED _____

APPROVED _____ DENIED _____ UNANIMOUS

YEA VOTES: Brown ___ Rivenbark ___ Tate ___ Ward ___ Williams ___

George R. Brown, Chairman 9/19/2011
Date

ATTEST Date

PLANNING STAFF REPORT
Special Use Permit

SUMMARY:

Hearing Date: September 19, 2011

Applicant: Randy Griffin; Wild Rides Internet Café

Property Owner: J. W. Hampstead, LLC

Case Number: 10039

Land Use Proposed: The applicant is requesting the approval of a Special Use Permit (SUP) for the operation of a Sweepstakes Center, as defined in the Pender County UDO:

SWEEPSTAKES CENTER: A business enterprise, whether principal or accessory, where persons may play games on on-site machines/terminals/computers that reveal the results of sweepstakes or similar contests associated with the on-site purchase of internet time, phone time, office supply or other retail good; and where redeemable cash sweepstakes awards (government issued coins and bills in hand) in amounts of \$10.00 or more may be received. This definition does not apply to any game or process prohibited by N.C.G.S. §§ 14-304 through 14-309 or to any game regulated by the North Carolina Education Lottery Commission.

Property Record Number and Location: The subject property is located at 15489 US Highway 17, Hampstead and is identified by Pender County PIN 3293-10-5569-0000.

Zoning District of Property: The property is currently zoned GB, General Business, and sweepstakes centers are permitted via SUP in the GB zoning district.

PROJECT DESCRIPTION:

Randy Griffin, applicant, on behalf of J.W. Hampstead, LLC, owner, is requesting to add the use of Sweepstakes Center to an existing business, Wilde Rides Internet Café & Sweepstakes. The applicant received a zoning permit for the operation of a print, copy, and internet service business on March 11, 2011. At the time of the zoning permit request and approval, it was not indicated that the business was to include the sweepstakes center use. On July 11, 2011, an informational letter was sent to the property owner in response to several signs in front of the business advertising internet sweepstakes observed by Pender County Code Enforcement. The applicant on behalf of the owner submitted an application for Special Use Permit on July 13, 2011 in an effort to bring the business into compliance by obtaining an SUP.

Wild Rides Internet Café and Sweepstakes is located in an existing shopping center currently containing retail and food service businesses. The applicant is proposing hours of 9:00am to 12am daily. The business currently complies with parking, buffer, and landscape requirements of the Unified Development Ordinance; the addition of sweepstakes center use will not warrant any additional upfits or improvements.

EVALUATION:

- A. **Public Notifications:** Advertisements for the proposal have been placed in the *Topsail Voice* and *The Pender Post*. Adjacent property owners were notified by first class mail.
- B. **Basis for Granting SUP:** See attachment A for approval procedures (§3.12.3 of Unified Development Ordinance) and revocation procedures (§3.12.4 of Unified Development Ordinance).
- C. **Unified Development Ordinance Compliance:** The property is currently zoned GB, General Business, and sweepstakes centers are permitted in the GB zoning district by Special Use Permit, as prescribed by the Pender County Unified Development Ordinance §5.2.3 Table of Permitted Uses.
- D. **2005 CAMA Land Use Plan Compliance:** The subject property is currently classified as Urban Growth Area. The proposed development is consistent with this classification, as the CAMA Land Use Plan states that Urban Growth Areas provide a mixture of more intensive commercial and industrial uses.
- E. **2010 Comprehensive Land Use Plan Compliance:** The subject property is currently classified within a Mixed Use area. The proposed land use is consistent with the *2010 Comprehensive Land Use Plan* as the plan states that Mixed Use areas should concentrate a mix of uses including commercial, office, institutional, and medium to high density residential uses. The SUP request also is supported by Goal 7A.1 of the 2010 Land Use Plan:

Goal 1A.1.5 – The County supports a pro-business/pro-growth attitude, balanced by a concern for preserving the natural assets and quality of life factors that make the area attractive to visitors and permanent residents alike.

Additionally, the SUP request does not conflict with any goals and policies in the 2010 LUP.

- F. **Existing Land Use in Area:** The existing land use in the immediate area surrounding the project site consists of largely of commercial uses. The adjacent tract to the north is commercial use, and the adjacent tract to the south is currently vacant but under review for commercial development. Low intensity commercial uses also exist across US Highway 17 from the subject property.
- G. **Site Access Conditions:** The property has direct access to US Highway 17 via an existing driveway.
- H. **Conditions To Consider In Issuing the Special Use Permit For This Project:**
 - 1. The project shall comply with all requirements of the Pender County Unified Development Ordinance.
 - 2. Unless approved otherwise as a condition of the permit, a Special Use Permit shall expire and become void, if a final zoning permit has not been issued for the project within 12 months.
 - 3. A separate permit must be obtained for any proposed signs in accordance with Article 9 of the Pender County Unified Development Ordinance.
 - 4. Any violations of the conditions of this permit, confirmed by the Zoning Administrator shall result in this permit becoming void, if not corrected within 30 days of receipt of the notice of violation.
 - 5. The obligations imposed by this permit will be the responsibility of the property owner and operator and shall continue in effect for the duration of this permit

TECHNICAL REVIEW COMMITTEE (TRC) RESPONSES:

Cape Fear Council of Governments RPO

No comment.

Four County Electric Company

No response.

NC DENR Division of Coastal Management

No response.

NC DENR Division of Forestry

No response.

NC DENR Division of Land Resources

No response.

NC DENR Division of Waste Management

No comment.

NC DENR Division of Water Quality

No response.

NC DOT Division of Highways

No comment.

NC DOT Transportation Planning Branch

No response.

NC Office of State Archaeology

No response.

NC Wildlife Resources Commission

No response.

Pender County Emergency Management

No response.

Pender County Environmental Health

No response.

Pender County Fire Marshall

No response.

Pender County Parks and Recreation

No comment.

Pender County Permitting/Floodplain Administrator

No response.

Pender County Public Library

No response.

Pender County Public Utilities

No comment.

Pender County Schools

No response.

Pender County Sheriff's Department

No response.

Pender County Soil and Water Conservation District

No response.

Progress Energy Corporation

No response.

US Army Corps of Engineers

No response.

Wilmington Metropolitan Planning Organization

MPO Staff inquired whether the business performed a trip generation estimate when originally locating to the shopping center.

Attachment A

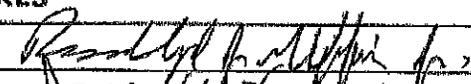
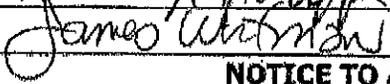
3.12.3 Procedures for Reviewing Applications

- A. The special uses, as specified in the various districts, may be established only after review and approval by the Board of Commissioners.
- B. The Board of County Commissioners, acting in a quasi-judicial manner and setting, shall hear evidence from the applicant and any interested members of the public.
- C. The Board of Commissioners shall hold a public hearing on the application for a Special Use Permit within sixty (60) days after the completed application is filed.
- D. The Administrator shall cause notice of the hearing to be published once a week for two successive calendar weeks. The notice shall be published for the first time not less than ten (10) nor more than twenty-five (25) days before the date fixed for the hearing.
- E. All Special Use Permit applications must be presented to the Administrator for a determination of completeness.
- F. An appeal from a completeness determination may be made to the Board of Adjustment within twenty (20) days of the determination.
- G. The Board of Commissioners shall approve, modify, or deny the application for a Special Use Permit. In approving a Special Use Permit, the Board of Commissioners, with due regard to the nature and state of all adjacent structures and uses in the district within same is located, shall make written findings that the following are fulfilled:
 - 1. The use requested is listed among the special uses in the district for which application is made, or is similar in character to those listed in that district;
 - 2. The requested use will not impair the integrity or character of the surrounding or adjoining districts, nor adversely affect the safety, health, morals, or welfare of the community or of the immediate neighbors of the property;
 - 3. The proposed use shall not constitute a nuisance or hazard;
 - 4. The requested use will be in conformity with the Pender County Land Use Plan and other official plans or policies adopted by the Board of County Commissioners;
 - 5. Adequate utilities, access roads, drainage, sanitation or other necessary facilities have been or are being provided;
 - 6. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize the traffic congestion in the public roads;
 - 7. That the special use shall, in all other respects, conform to the applicable regulations of the district in which it is located; and
 - 8. The proposed use shall not adversely affect surrounding uses and shall be placed on a lot of sufficient size to satisfy the space requirements of said use.

3.12.4 General Provisions Concerning Special Use Permits

- B. Revocation - In any case where the Special Use Permit or the conditions of a Special Use Permit have not been or are not being complied with, the Administrator may initiate a notice of violation for the provisions of this ordinance and the conditions of the Special Use Permit not in compliance or the Administrator, may initiate notice of a public hearing to consider revocation of the permit by the Board of Commissioners or both actions may be initiated. Procedures for notice of such hearing shall be the same as procedures for consideration of an initial application for a Special Use Permit and the permittee shall be notified.

APPLICATION FOR SPECIAL USE PERMIT

THIS SECTION FOR OFFICE USE			
Application No.	SUP	Date	7/13/11
Application Fee	\$ 300.00	Receipt No.	11289
Pre-Application Conference		Hearing Date	Sept. 19, 2011
SECTION 1: APPLICANT INFORMATION			
Applicant's Name:	Randy Griffin (Wild Rides Internet Cafe)	Owner's Name:	J. W. Hampstead LLC
Applicant's Address:	825 Washington Acres Rd.	Owner's Address:	1902 Meeting Ct
City, State, & Zip	Hampstead, NC 28443	City, State, & Zip	Wilmington, NC 28403
Phone Number:	910-367-2210	Phone Number:	
Legal relationship of applicant to land owner: Tenant of the unit being leased.			
SECTION 2: PROJECT INFORMATION			
Property Identification Number (PIN):	3293-10-5569-0000	Total property acreage:	3.02 acres
Zoning Classification:	GB	Acreage to be disturbed:	N/A
Project Address :	15489 US Hwy 117 - Unit B	NAICS Code:	
Description of Project Location:	Business is located in an existing strip mall that currently has a Domino's, Dollar General, and Andy's Restaurant.		
Describe activities to be undertaken on project site:	Internet sweepstakes, copy and fax services, and some retail.		
SECTION 3: SIGNATURES			
Applicant's Signature		Date:	7/25/2011
Owner's Signature		Date:	7/25/2011
NOTICE TO APPLICANT			
<ol style="list-style-type: none"> 1. Applicant must also submit the information described on the Special Use Checklist. 2. Applicant or agent authorized in writing must attend the public hearing. 3. Once the public hearing has been advertised, the case will be heard unless the applicant withdraws the application or unless the Board of Commissioners or other authorized person agrees to table or delay the hearing. 4. Applicant may wish to review the required findings for approval of a Special Use Permit found on page 1 of this application 5. Permit will become void after 12 months if a final zoning permit is not obtained, unless specifically requested at the time of public hearing. 			

Project Narrative for: Wild Rides Internet Café & Sweepstakes

Property Owner
J. W. Hampstead, LLC

Owner of Business
Randy Griffin, Jr.
(Tenant of Unit)

Project Location
15489 US Hwy 17
Hampstead, NC 28443

Current Use of Building
Multiple uses that includes a Dollar General, Dominos Pizza & Andy's Restaurant

Proposed Use
Internet sweepstakes business

Background Information

On July 6, 2009, I obtained zoning approval to operate Wild Rides Internet Café & Sweepstakes at Coastline Station. The business was operated in accordance to the zoning rules and regulations that were in place at that time the approval was issued. The hours of operation at this location were Monday - Sunday, from 9:00 am to 12 midnight.

Since then I relocated the business to 15489 US Hwy 17 (approx. one mile from south of the previous location). However, prior to relocating the business, I obtained the necessary documents and county permits needed to open the business at this location. The hours of operation remained the same as the previous location and I utilized the same information submitted for this location's approval as I did previously. Nevertheless, I was told that the business was not operating in accordance to the zoning permit that was issued and would need to obtain a special use permit. Therefore, I am here to request a special use permit to continue to operate this internet/sweepstakes business at this location. Should I have known this type of permit was needed before I relocated, I would have applied for the proper documentation prior to relocating the operation.

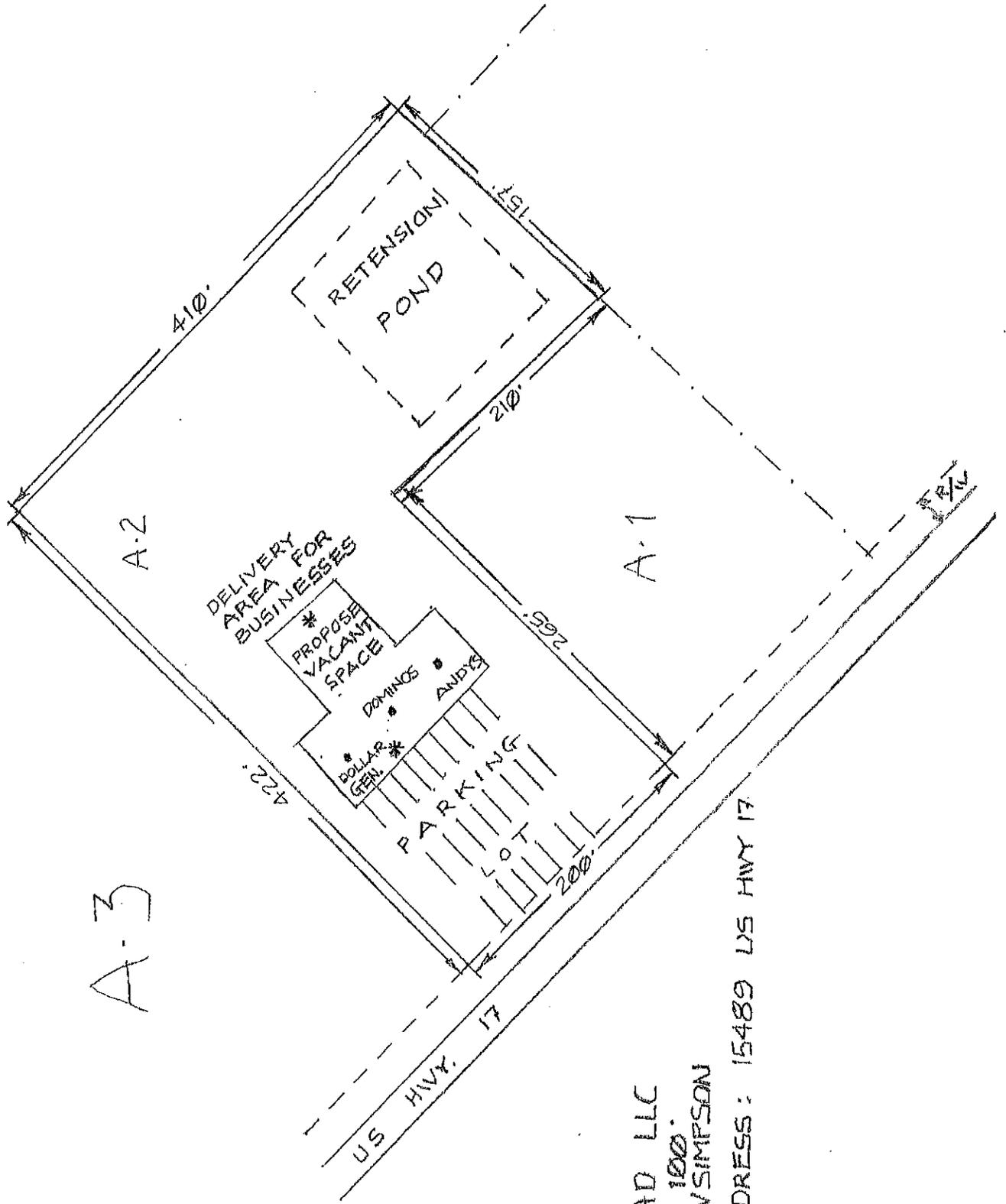
As a member of the Greater Hampstead Chamber of Commerce, it is my desires to continue to this operate this business in accordance with all state, local, and federal guidelines.

Thank you for your consideration.

Respectfully,



Randy Griffin, Jr., Owner
Wild Rides Internet Café & Sweepstakes



PAT PLAN

JW HAMPSTEAD LLC

SCALE: 1" = 100'

DRWN. BY: VWSIMPSON

PROPERTY ADDRESS: 15489 US HWY 17