



## REQUEST FOR BOARD ACTION

ITEM NO. 13.

**DATE OF MEETING:** September 19, 2011

**REQUESTED BY:** Ashley Frank, Planner II, Planning & Community Development

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

**BACKGROUND:** Thomas Merritt, applicant, on behalf of Jack Jones, owner, is requesting approval of a Special Use Permit (SUP) for the operation of a Sweepstakes Center within an existing shopping center located at 15200 (Units E&F) US Highway 17, Hampstead. The property may be identified as Pender County PIN 3292-18-0909-0000. The property 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.



**PLANNING STAFF REPORT**  
**Special Use Permit**

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**SUMMARY:**

**Hearing Date:** September 19, 2011  
**Applicant:** Thomas Merritt  
**Property Owner:** Jack Jones, Jones Plaza  
**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 15200 US Highway 17 (Units E & F), Hampstead and is identified by Pender County Parcel Identification Number (PIN) 3292-18-0909-0000.

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

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**PROJECT DESCRIPTION:**

Thomas Merritt, applicant, on behalf of Jack Jones, owner, is requesting approval of a Special Use Permit (SUP) for the operation of a Sweepstakes Center within an existing shopping center located at 15200 (Units E&F) US Highway 17, Hampstead. The property may be identified as PIN 3292-18-0909-0000. The property is currently zoned GB, General Business, and internet sweepstakes businesses are permitted via SUP in the GB zoning district.

The proposed use will be located within Jones Plaza, an existing shopping center currently containing retail and office type uses. The applicant is proposing hours of 10am to 12am daily.

Access to the facility will be provided via existing driveway along US Highway 17; the North Carolina Department of Transportation (NC DOT) may require a driveway permit for the addition of the new use.

Prior to the issuance of zoning approval and building permits; a Site Development Plan must be submitted and approved in accordance with Articles 3.6 and 6.3. A part of this review will include compliance with Article 8, Landscaping and Buffering as prescribed the Pender County Unified Development Ordinance. The site plan submitted with this application is considered conceptual and does not reflect any approvals, regulations in effect or any additional conditions imposed on this SUP.

Use Type	Ref NAICS	Zoning Districts									
		RA	RP	RM	MOE	PD	GB	OI	IT	FI	EC
MISCELLANEOUS USES											
Sweepstakes Center							S		S	S	

**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, as well as a sign placed on the subject property.
- 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 described 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:** This property is located in the Coastal Pender Study Area and the 2010 Comprehensive Land Use Plan classifies the subject property as Mixed Use, which is a land use classification designating locations where a mixture of higher density/intensity uses are to be encouraged. 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 surrounding the project site consists of mainly of commercial uses. The adjacent tracts across US Highway 17 are commercial uses, the tracts to the east consist of residential uses, to the south is a vacant, undeveloped tract and to the west is the old Topsail High School.
- 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 Developed 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. 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.
4. The obligations imposed by this permit will be the responsibility of the property owner and operator and shall continue in affect for the duration of this permit.
5. The applicant shall meet all other local, state and federal regulations.
6. A separate permit must be obtained for any proposed signs in accordance with Article 10 of the Pender County Unified Development Ordinance.
7. The project shall be developed and maintained in accord with the conditions contained in this permit.
8. Prior to the issuance of a zoning approval and building permits; a Site Development Plan must be submitted and approved, in accordance with Articles 3.6 and 6.3.
9. The hours of operation shall be seven days a week 10am to 12am
10. No junk, debris, trash, or inoperable vehicles, recycled or salvaged materials shall be stored on the site. All debris shall be removed from the site prior to issuance of a zoning permit.

## 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.	SWP # 10052	Date	August 3, 2011
Application Fee	\$ 300.00 + 1.76 Mail	Receipt No.	107623
Pre-Application Conference	n/a	Hearing Date	Sept. 19, 2011
<b>SECTION 1: APPLICANT INFORMATION</b>			
Applicant's Name:	THOMAS MERRITT	Owner's Name:	JACK P. JONES
Applicant's Address:	15200 US Hwy 17 UNIT E+F	Owner's Address:	709 SOUND VIEW DR.
City, State, & Zip	HAMPSTEAD NC 28443	City, State, & Zip	HAMPSTEAD NC 28443
Phone Number:	910 376 0240	Phone Number:	910 232 3976
Legal relationship of applicant to land owner:	N/A		
<b>SECTION 2: PROJECT INFORMATION</b>			
Property Identification Number (PIN):	329 <sup>2</sup> .18.0909	Total property acreage:	1.16
Zoning Classification:	GB	Acreage to be disturbed:	n/a
Project Address :	15200 US Hwy 17 - UNIT E+F	NAICS Code:	
Description of Project Location:	STRIP MALL		
Describe activities to be undertaken on project site:	INTERNET CAFE - WAGERING PARLOR - GAMING		
	HOURS 10 AM - 12 PM (seven days)		
<b>SECTION 3: SIGNATURES</b>			
Applicant's Signature	<i>Thomas Merritt</i>	Date:	8-3-11
Owner's Signature	<i>Jack Jones</i>	Date:	8-3-11
<b>NOTICE TO APPLICANT</b>			
<ol style="list-style-type: none"> <li>1. Applicant must also submit the information described on the Special Use Checklist.</li> <li>2. Applicant or agent authorized in writing must attend the public hearing.</li> <li>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.</li> <li>4. Applicant may wish to review the required findings for approval of a Special Use Permit found on page 1 of this application</li> <li>5. <b>Permit will become void after 12 months if a final zoning permit is not obtained, unless specifically requested at the time of public hearing.</b></li> </ol>			

Office Use Only			
<input checked="" type="checkbox"/> <b>General/</b> Fees: \$300 +\$10 per acre over 5 acres, Max. of \$5,000 <input type="checkbox"/> <b>Tower over 75 Feet/</b> Fees \$500 <input type="checkbox"/> <b>Minor Revisions /</b> Fees \$100 <input type="checkbox"/> <b>Mining</b> Fees \$750		<b>Total Fee Calculation:</b> \$ <u>301.76</u>	
300 + 1.76 for Mailings		<b>Application#:</b> <u>10052</u>	
		<b>Date of Hearing:</b> <u>9.19.2011</u>	
Attachments Included with Application: (Please include # of copies)			
CD /other digital version	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Plan Sets	<input type="checkbox"/> # of large <u>2</u> <input type="checkbox"/> # of 11X17 <u>18</u>
		Other documents/Reports	<input type="checkbox"/> Y <input type="checkbox"/> N
<b>Payment Method:</b>		<b>Check:</b>	
<b>Cash :</b> <input type="checkbox"/> \$ _____		<input checked="" type="checkbox"/> Check # <u>3615</u>	
		<input type="checkbox"/> Master Card <input type="checkbox"/> Visa	
Application received by:		Date: <u>8.3.11</u>	
Application completeness approved by:		Date: <u>8.3.11</u>	

### Special Use Permit Checklist

2 copies of large vsup file 11x17

<input type="checkbox"/>	Signed Application Form (Both Applicant and Owner)
<input type="checkbox"/>	Application fee
<input checked="" type="checkbox"/>	Legible list of all property owners adjacent to the property upon which the use is to be located. The list shall include the mailing address & physical address of these property owners (The application will not be advertised for public hearing until the list is accurate & complete)
<input checked="" type="checkbox"/>	One business size envelope legibly addressed with first class postage for each of the adjacent property owners on the above list.
<input type="checkbox"/>	<b>Project Narrative</b> --Written description of the project (max of 3 pages) including the following: <ul style="list-style-type: none"> <li><input type="checkbox"/> Location of the project and type of access to project site</li> <li><input type="checkbox"/> Detailed description of the activities to be undertaken on the site, including hrs. of operation, # of employees, etc.</li> <li><input type="checkbox"/> Description of all construction activities to be undertaken on the site</li> <li><input type="checkbox"/> Describe type of utilities that will serve project and status of approval from applicable providers</li> <li><input type="checkbox"/> List of all state and federal permits that will be required for the project</li> <li><input type="checkbox"/> Describe any potential impacts the project will have on the community or adjacent properties such as traffic, noise, etc. and explain efforts to mitigate these impacts (this item must be addressed by the applicant). The applicant may also wish to describe any positive benefits the project will provide for the community and/or neighbors of the project.</li> </ul>
<input checked="" type="checkbox"/>	<b>Project Map(s)</b> --Map or maps of the special use project site with boundaries of the project if less than the parcel boundaries. This map or maps shall be drawn to a <u>readable</u> scale. The scale shall be not more than 200' to the inch. The map shall display an accurate bar graph scale, date prepared, north arrow and the author of the map. This map(s) shall show the following: <ul style="list-style-type: none"> <li><input type="checkbox"/> Boundaries of the property upon which the special use will be located, the acreage in the property and project site, with a north arrow and bar graph.</li> <li><input type="checkbox"/> Access from the site and/or project boundaries to the nearest publicly maintained road.</li> <li><input type="checkbox"/> Location of any existing structures or uses on the property and within 50' of the property.</li> <li><input type="checkbox"/> Location of the project boundaries if they do not coincide with the property boundaries.</li> <li><input type="checkbox"/> Existing and proposed structures, other on-site improvements, and location of all activities associated with the use, location of well, septic tank, and/or other utilities.</li> <li><input type="checkbox"/> Boundary of all clearing, grading, and/or land disturbing activities on the site and the calculated acreage of all land disturbing activities on the site.</li> <li><input type="checkbox"/> Parking, loading areas, and access to the project (See Article 7, Pender County UDO)</li> <li><input type="checkbox"/> Landscaping and buffering (See Article 8, Pender County UDO)</li> <li><input type="checkbox"/> All signs to be located on the property (See Article 10, Pender County UDO)</li> <li><input type="checkbox"/> Pedestrian walks, area lighting and flood lighting.</li> <li><input type="checkbox"/> Existing natural features of the site including, wooded areas, tree lines, ponds, streams, other water bodies or ditches on or adjacent to the site, designated flood hazard areas &amp; known or designated wetlands on the site.</li> <li><input type="checkbox"/> Drainage plan and/or direction of flow of runoff from the project and site.</li> <li><input type="checkbox"/> After review by the Planning and Community Development Department, additional information may be required to be submitted.</li> <li><input type="checkbox"/> Two full size and twenty reduced size (max. 11"x17") copies of this map(s) shall be submitted.</li> </ul>

**RETURN COMPLETED APPLICATION TO:**  
 Pender County Planning & Community Development  
 P.O. Box 1519  
 Burgaw, NC 28425

S and C Realty  
109 Sound View Drive  
Hampstead, N. C. 28443

August 5, 2011

Re: Special Use permit  
Thomas Merritt – Internet Cafe.  
Jones Plaza, 15200 U S. Highway 17, Hampstead, N. C. 28443

Pender County Commissioners

Please be advised that we are seeking approval for the location of an internet cafe.

The location is at the existing Jones Plaza, 15200 U. S. Hwy 17, Hampstead, N. C.

The occupied space is to be unfitted of existing 10,000 sq. ft. bldg.

The tenant is requesting to occupy 2,000 sq. ft.

The access to the property is through a DOT approved driveway entrance with ample parking provided on site.

The operation consists of gaming, sweepstakes, and games of chance.

The number of customers can vary with a norm of 10 to 15 persons at any one time.

The number of employees would be one person with possible 2 being present on the location.

The construction is kept to minimum since the site would only require some inside partitions along with elect., plumb., and mech work.

The Impact on the area is minimal to the extent that traffic from an existing location has good site visibility with a traffic light located at Hoover Road to interrupt traffic flow.

Also to the south of the property is a 10 acre undeveloped site and to the north commercial sites with one being a residence which is for sale at this time.

It appears that existing businesses have not had an adverse effect on the community.

The generated tax revenue from a business of this type helps relieve the burden from individual tax payers.

At this time the proper name of the business has not been determined.

Respectfully submitted

  
Jack P Jones - Owner