REQUEST FOR BOARD ACTION

ITEM NO. 21.

DATE OF MEETING: February 21, 2012

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: John Calderone, applicant, of behalf of Robert Zack et. al, owner, is requesting approval of a Special Use Permit for the operation of a sweepstakes center at 14710 US Highway 17, Hampstead. The property may be identified by Pender County PIN 3282-97-1166-0000 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 ___

_____ 2/21/2012
Chairman Date

_____ _____
ATTEST Date

PLANNING STAFF REPORT
Special Use Permit

SUMMARY:

Hearing Date: February 21, 2012
Applicant: John Calderone
Property Owner: Robert Zack, et. al
Case Number: 10665

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 14710 US Highway 17, Hampstead and is identified by Pender County PIN 3282-97-1166-0000

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:

John Calderone, applicant, on behalf of Robert Zack, et. al, owner, is requesting approval of a Special Use Permit for the operation of a Sweepstakes Center within the upstairs portion of an existing commercial building at 14710 US Highway 17, Hampstead.

The applicant has proposed hours of 12pm to midnight daily. The applicant has indicated a normal customer average of 5 to 10 persons. The applicant has indicated there will be up to 1 to 2 employees, including one security personnel.

The applicant has emphasized security in his application narrative, noting that security cameras will be installed in the business as well as an alarm system that would be able to directly contact the Sheriff's Department.

The subject parcel hosts an additional commercial use in the downstairs portion of the existing building known as Bella Anne, a vintage boutique store. The subject site is in the central commercial area of Hampstead, surrounded by existing commercial uses including Coastal Cash Exchange, Bellamy Transmission, Atlantic Seafood, and others across US Highway 17, and another vintage boutique adjacent to the parcel to the south. Across Factory Road lies an undeveloped parcel and Hampstead Baptist Church. The nearest residential use lies to the southeast at 68 Factory Road.

The property has direct access to US Highway 17 via an existing driveway, and may also be accessed via Factory Road.

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, which allows for intense commercial and job-creating uses.

E. ***2010 Comprehensive Land Use Plan Compliance:*** The subject property is currently classified within a Mixed Use area. The proposed land use is consisted with the *2010 Comprehensive Land Use Plan* as the plan states that Mixed Use areas are 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.1of 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 subject site is in the central commercial area of Hampstead, surrounded by existing commercial uses including Coastal Cash Exchange, Bellamy Transmission, Atlantic Seafood, and others across US Highway 17, and another vintage boutique adjacent to the parcel to the south. Across Factory Road lies an undeveloped parcel and Hampstead Baptist Church. The nearest residential use lies to the southeast at 68 Factory Road.

G. ***Site Access Conditions:*** The property has direct access to US Highway 17 and Factory Roads via existing driveways.

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. 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 affect for the duration of this permit

TECHNICAL REVIEW COMMITTEE (TRC) RESPONSES:

Cape Fear Council of Governments RPO
No response.

Four County Electric Company
TRC email deleted without being read.

NC DENR Division of Coastal Management
No comment.

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
Applicant needs to contact Doug Racine at 910-346-2040.

NC DOT Transportation Planning Branch
No response.

NC Office of State Archaeology
TRC email deleted without being read.

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 issues/concerns noted with request.

Pender County Permitting/Floodplain Administrator
No response.

Pender County Public Library
No response.

Pender County Public Utilities
No comment.

Pender County Schools
No comment.

Pender County Sheriff's Department
No response.

Pender County Soil and Water Conservation District
No issues/concerns noted with request.

Progress Energy Corporation
No response.

US Army Corps of Engineers
No response.

Wilmington Metropolitan Planning Organization
No response.

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 - 10665	Date	1/6/2012
Application Fee	$ 300	Receipt No.	116700
Pre-Application Conference	VIA PHONE - 12/14/11	Hearing Date	2/21/12

SECTION 1: APPLICANT INFORMATION

Applicant's Name:	John Calderone	Owner's Name:	ROBERT ZACK ET AL
Applicant's Address:	706 Campbell St.	Owner's Address:	26 RIDGE RD
City, State, & Zip	Wilmington, NC 28401	City, State, & Zip	SOUTHAMPTON NY 11968
Phone Number:	910-471-2201	Phone Number:	631-283-6540
Legal relationship of applicant to land owner:			

SECTION 2: PROJECT INFORMATION

Property Identification Number (PIN):	3232-97-1166-0000	Total property acreage:	1
Zoning Classification:	General Business	Acreage to be disturbed:	0
Project Address:	14712 Hwy 17 (2nd Floor)	NAICS Code:	SWEEPSTAKES CENTER
Description of Project Location:	Two story Brick Building with Parking lot. Will be renting 2nd Floor Approx. 1480 Sq. Ft.		
Describe activities to be undertaken on project site:	Internet Café (sweepstakes)		

SECTION 3: SIGNATURES

Applicant's Signature	John Calderone	Date:	12-6-12
Owner's Signature	SEE ATTACHED FAX VERSION	Date:	

NOTICE TO APPLICANT

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.**

Office Use Only	
☒ **General/** Fees: $300 +$10 per acre over 5 acres, Max. of $5,000 ☐ **Tower over 75 Feet/** Fees $500 ☐ **Minor Revisions /**Fees $100 ☐ **Mining** Fees $750	**Total Fee Calculation: $** 300 **Application#:** **Date of Hearing:** 2/21/2012

Attachments Included with Application: (Please include # of copies)

CD /other digital version	☐ Y ☐ N	Plan Sets	# of large	# of 11X17	Other documents/Reports	☐ Y ☐ N

Payment Method:	**Cash :** ☐ $_____	**Credit Card:** ☐ Master Card ☐ Visa	**Check:** ☐ Check #_____

Application received by:	BO Dal	Date: 1/6/2012
Application completeness approved by:	BO Dal	Date: 1/6/2012

Special Use Permit Checklist

- ☑ Signed Application Form (Both Applicant and Owner)
- ☑ Application fee
- ☑ 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
- ☑ One business size envelope legibly addressed with first class postage for each of the adjacent property owners on the above list.
- ☑ Project Narrative--Written description of the project (max of 3 pages) including the following:
  - ☑ Location of the project and type of access to project site
  - ☑ Detailed description of the activities to be undertaken on the site, including hrs. of operation, # of employees, etc.
  - ☑ Description of all construction activities to be undertaken on the site
  - ☑ Describe type of utilities that will serve project and status of approval from applicable providers
  - ☑ List of all state and federal permits that will be required for the project
  - ☑ 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.
- ☑ Project Map(s)--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 readable 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:
  - ☑ 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.
  - ☑ Access from the site and/or project boundaries to the nearest publicly maintained road.
  - ☐ Location of any existing structures or uses on the property and within 50' of the property.
  - ☑ Location of the project boundaries if they do not coincide with the property boundaries.
  - ☑ 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.
  - ☑ 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.
  - ☑ Parking, loading areas, and access to the project (See Article 7, Pender County UDO)
  - ☑ Landscaping and buffering (See Article 8, Pender County UDO)
  - ☑ All signs to be located on the property (See Article 10, Pender County UDO)
  - ☑ Pedestrian walks, area lighting and flood lighting.
  - ☑ 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 & known or designated wetlands on the site.
  - ☑ Drainage plan and/or direction of flow of runoff from the project and site.
  - ☑ After review by the Planning and Community Development Department, additional information may be required to be submitted.
  - ☐ Two full size and twenty reduced size (max. 11"x17") copies of this map(s) shall be submitted.

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

Print Form

POLICY NUMBER: FL11024657

Permit Doc

APPLICATION FOR SPECIAL USE PERMIT

FOR OFFICE USE			
Application No.	SUP	Date	
Application Fee	$	Receipt No.	
Pre-Application Conference		Hearing Date	

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Applicant's Name:	John Calderone	Owner's Name:	Robert + Margaret Zack
Applicant's Address:	706 Campbell St.	Owner's Address:	24 Ridge Rd
City, State, & Zip	Wilmington, NC 28401	City, State, & Zip	Southampton, NY 11968
Phone Number:	910-471-2201	Phone Number:	631-283-6540

Legal relationship of applicant to land owner: LANDLORD / TENANT

SECTION 2: PROJECT INFORMATION

Property Identification Number (PIN):		Total property acreage:	1
Zoning Classification:	General Business	Acreage to be disturbed:	
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SECTION 3: SIGNATURES

Applicant's Signature	John Calderone	Date:	12-6-12
Owner's Signature	Robert + Margaret Zack	Date:	12-6-12

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Pender County Planning and Community Development

Project Narrative

The location of the building I will be renting is the 2nd floor of 14710 Ste 3 Hwy 17 Hampstead, NC 28443. The property is zoned GB, General Business. Access to the site is a drive in parking lot off of Hwy 17 and a second entrance on Factory Road.

To legally operated an internet café (sweepstake) business. Business hours will start at 12pm – 12am 7 days a week. I will have 1-2 employees working including one security. There will be a costumer average of 5-10 people. Customers will be granted free sodas and snacks while playing. Three days a week free lunch will be served and catered from local businesses in Pender County. Security cameras will be placed in the facility as well as an alarm system. The alarm system will have a panic button that rings straight to the Sheriff's Department.

No construction will be done on this site.

Utilities that will be needed are general: water, trash, electric, and internet.

I will need a Special Use Permit from Pender County.

There will be no negative impacts with this project. This business will be alcohol and drug free. I will make sure to maintain a clean and respectful business. I will have a positive and quiet running business.

Having food catered from local businesses 3 days a week will help a small portion of the local businesses.

Sincerely,

John Calderone