

**Camden County Planning Board
Minutes
August 21, 2013, 7:00pm
Historic Courtroom
Camden County Courthouse Complex**

Members Present:	Absent:
Chairman Rodney Needham	Ray Albertson
Vice Chairman Calvin Leary	
Fletcher Harris	
David Bundy	
Patricia Delano	
Michael Etheridge	

Call to Order & Welcome

Chairman Rodney Needham called to order the August 21, 2013 meeting at 7:00 PM.

Others Present at Meeting

STAFF PRESENT

Name:	Title:
Dan Porter	Planning Director
Dave Parks	Permit Officer
Amy Barnett	Clerk to the Planning Board

OTHERS PRESENT

Name/Residence:	Title:	Purpose / Representing:	Meeting Section:
John W. Spence	Property Owner	Rezoning Request	New Business, Item #2

Consideration of Agenda

Chairman Rodney Needham called for consideration of the agenda.

Dan Porter stated that item number 3 (Special Use Permit, UDO 2012-05-01, Phase I, North River Crossing) needed to be pulled from the agenda. The applicant did not have all their paperwork turned in, in time for the meeting.

Motion to approve the agenda as amended by staff made by: Michael Etheridge.
Motion Seconded by: David Bundy.

The motion was approved with Chairman Rodney Needham, Vice Chairman Calvin Leary, Members Fletcher Harris, Michael Etheridge, David Bundy, and Patricia Delano voting aye, none voting no, Ray Albertson absent, and none not voting.

Consideration of Minutes: July 17, 2013

Chairman Rodney Needham called for consideration of the minutes from the July 17, 2013 Planning Board meeting.

Motion to approve the minutes as written made by: Vice Chairman Calvin Leary.
Motion Seconded by: Fletcher Harris.

The motion was approved with Chairman Rodney Needham, Vice Chairman Calvin Leary, Members Fletcher Harris, Michael Etheridge, David Bundy, and Patricia Delano voting aye, none voting no, Ray Albertson absent, and none not voting.

Comments from the Public

None

Old Business

None

New Business

***New Business, Item #1
Amendments to Camden County Code of Ordinances***

Ordinance No. 2013-08-01

**An Ordinance
Amending the Camden County
Code of Ordinances**

Camden County, North Carolina

BE IT ORDAINED BY THE CAMDEN COUNTY BOARD OF COMMISSIONERS as follows:

Article I: Purpose

The purpose of this Ordinance is to amend Chapter 151 of the Camden County Code of Ordinances of Camden County, North Carolina, which was originally adopted by the County Commissioners on December 15, 1997, and subsequently amended and as otherwise incorporated into the Camden County Code.

Article II. Construction

For purposes of this Ordinance, underlined words (underline) shall be considered as additions to existing Ordinance language and strikethrough words (~~strikethrough~~) shall be considered deletions to existing language. New language of proposed ordinance shall be shown in italics (*italics*) and underlined.

Article III. Amend Chapter 151 as amended of the Camden County Code
which shall read as follows:

CHAPTER 151: UNIFIED DEVELOPMENT

§ 151.530 APPEALS.

(A) An appeal from any final order or decision of the Administrator may be taken to the Board of Adjustment by any person aggrieved. An appeal is taken by filing with the Administrator and the Board of Adjustment a written notice of appeal specifying the grounds therefor. A notice of appeal shall be considered filed with the Administrator and the Board of Adjustment when delivered to the office of the Administrator and the date and time of filing shall be entered on the notice by the staff.

(B) An appeal must be taken within ~~ten~~ thirty (30) days after the date of the decision or order appealed from.

§ 151.531 VARIANCES.

(A) An application for a variance shall be submitted to the Board of Adjustment by filing a copy of the application in the office of the Administrator. Applications shall be handled in the same manner as applications for conditional use permits.

~~(B) A variance may be granted by the Board of Adjustment if it concludes that strict enforcement of this chapter would result in practical difficulties or unnecessary hardships for the applicant and that, by granting the variance, the spirit of the chapter will be observed, public safety and welfare secured and substantial justice done. It may reach these conclusions if it makes detailed written findings that:~~

When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:

~~(1) If the applicant complies strictly with the provisions of this chapter, he or she can make no reasonable use of his or her property; *Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.*~~

~~(2) The hardship of which the applicant complains is one suffered by the applicant rather than by neighbors or the general public; *The hardships results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis of granting a variance.*~~

~~(3) The hardship relates to the applicant's land, rather than personal circumstances; *The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.*~~

~~(4) The hardship is unique, or nearly so, rather than one shared by many surrounding properties; *The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.*~~

~~(5) The hardship is not the result of the applicant's own actions; and~~

~~(6) The variance will neither result in the initiation of a nonconforming use of land.~~

(C) ~~In granting variances, the Board of Adjustment may impose reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties. *Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other ordinance that regulates land use or development may provide for variances consistent with the provisions of the subsection.*~~ In granting a variance, the Board of Adjustment shall make detailed written findings of fact and conclusions arising from the facts which explain and justify the decision, which written findings and conclusions shall be incorporated into the minutes of the meeting.

§ 151.334 TABLE OF PERMISSIBLE USES.

USE#	DESCRIPTION	R-1	R-2	R-3	CCD	NCD	HC	MC	GUD	I-1	I-2
6.130	Internet Sweepstakes Caf Subject to Article 151.347(U)				S		S				
6.220	Publically-owned outdoor recreational facilities, such as athletic fields, golf courses, tennis courts, swimming pools, parks, campgrounds, boat ramps and docks and the like not constructed pursuant to a permit authorizing the construction of another use (such as school)	Z	Z	Z	Z	Z	Z	Z	Z		

§ 151.347 SPECIFIC STANDARDS.

(U) *Reserved for future use.* ~~The following development and design standards shall apply to all Internet Sweepstakes Cafés:~~

- ~~(1) If food is served, the establishment shall meet all the requirements of the Albemarle Regional Health Services or appropriate state agency requirements.~~
- ~~(2) There shall be no consumption of alcoholic beverages on the premises to include parking areas.~~
- ~~(3) The gaming operation shall be visible and open to the store front.~~
- ~~(4) All exterior windows shall not exceed a window tint of 35%.~~
- ~~(5) The maximum number of player terminals shall be made as a condition of the special use permit. No poker or slot style machines shall be allowed.~~
- ~~(6) The hours of operations shall be made as a condition of the special use permit.~~
- ~~(7) Firearms shall be prohibited in the establishment.~~
- ~~(8) The establishment shall be limited to patrons and employees at least 18 years of age.~~
- ~~(9) There shall be no other café located within a 1/2 mile of each other. The measurement of distance shall be a straight line from the closest point of the building at which the operations are located.~~

Adopted by the Board of Commissioners for the County of Camden this day of , 2013.

County of Camden

Garry Meiggs, Chairman
Board of Commissioners

ATTEST:

Ashley Honaker
Clerk to the Board

Dan Porter described this amendment:

- 1st change deals with the new state law regarding Board of Adjustment and Variances
 - Changes time frame for appeals to 30 days vs 10 days
 - Changes the specific questions required to be asked so that they deal more with the land than the applicant and their personal circumstances
 - More lenient: eliminates questions regarding uniqueness of the hardship, hardship resulting from applicants own actions, and question relating to non-conforming uses
 - Section C will have to be reviewed for legal interpretation
- 2nd change deals with a change to the Table of Permissible Uses, specifically Internet Sweepstakes Cafés
 - NC Supreme Court has ruled that Internet Sweepstakes Cafés are now illegal in the state of NC
 - This change removes Internet Sweepstakes Cafés from the Table of Permissible Uses and recommendation is to prohibit it as a land use altogether
- 3rd change deals with Neighborhood Parks
 - Neighborhood Parks as a land use was not included in the Table of Permissible Uses - which was an oversight. This change corrects that oversight.

Changes #1 & #2 are mandated by the State of NC, change #3 is recommended by staff.

At this time, Chairman Rodney Needham asked if there were any further questions or comments from the board, hearing none he entertained a motion.

Motion Made: *"Approve the changes to the Code of Ordinances as recommended by staff".*

Motion made by: Vice Chairman Calvin Leary.

Motion Seconded by: Fletcher Harris.

The motion was approved with Chairman Rodney Needham, Vice Chairman Calvin Leary, Members Fletcher Harris, Michael Etheridge, David Bundy, and Patricia Delano voting aye, none voting no, Ray Albertson absent, and none not voting.

New Business, Item #2

Rezoning Application, John W. Spence, Property located off Bingham Rd, R-3-2 to R-1

Findings

UDO 2013-07-20

Minor Zoning Map Amendment

1. **Name of Applicant:** John W. Spence
2. **Agent for Applicant:**
3. **Address of Applicant:** 735 Firetower Road
Elizabeth City, NC 27909
4. **PIN:** 01-7998-00-05-2109, 01-7998-00-05-2005, 01-7998-00-04-2921, and 01-7998-00-04-2649
5. **File Reference:** UDO 2013-07-20
6. **Name(s) of Current Owner(s) of Record:** John W. Spence
7. **Street Address of Property:** 104, 106, 108, and 114 Bingham Road
8. **Location of Property:** South Mills Township
9. **Flood Zone:** AE
10. **Zoning District(s):** Properties zoned Basic Residential (R3-2)
11. **General Description of the Proposal:** Request rezone properties from Basic Residential (R3-2) to Mixed Village Residential (R1)
12. **Date Application Received by County:** July 30, 2013
13. **Received by:** David Parks, Permit Officer
14. **Application fee paid:** \$650.00 Cash
15. **Completeness of Application:** Application is generally complete.
16. **Documents received upon filing of application or otherwise included and listed as attachments:**
 - A. Rezoning Application
 - B. Pages from Executive Summary of the CAMA Land Use Plan
 - C. GIS Aerial photo, zoning map, floodplain map, Comprehensive Plan Future Land Use Map, CAMA Future Land Use Map, and CAMA Land Suitability Map of properties
 - D. Table of Permissible Use comparison's: R3 against R1.
 - E. Percentage and acreage of all zoning districts in Camden County
 - F. Tax Cards on each property
17. **Adjacent Property Uses:**
 - A. Predominant: Agriculture
 - B. Other: Residential
18. **Existing Land Uses:** 4 lots total; 2 Vacant Lots and 2 lots have Singlewide Mobile Homes on them.
19. **Lot size:** Total of all 4 lots is approximately 5.2 acres
20. **Findings Regarding Additional Requirements:**
 - A. How will the proposed zoning change enhance the public health, safety or welfare? The proposed zoning change will enhance the public welfare by providing existing lots with a history of mobile homes on them an area for affordable housing.
 - B. Is the entire range of permitted uses in the requested classification more appropriate than the range of uses in the existing classification? The range of permitted uses in either zoning classification would be appropriate for the area (See attachment D).
 - C. For proposals to re-zone to non-residential districts along major arterial roads:
 - (1) Is this an expansion of an adjacent zoning district of the same classification? N/A.
 - (2) What extraordinary showing of public need or demand is met by this application? N/A.
 - D. Conformity with the Plans:
 - (1) Comprehensive Plan – Future Land Use Map has property identified as Rural Preservation (Very low density residential 1 dwelling unit per 5 acres).
 - (2) CAMA Plan – Future Land Use Map has property identified as Low Density Residential (one dwelling unit per acre).
 - (3) Thoroughfare Plan – Access to property is off Bingham Road.
 - (4) Other Plans officially adopted by the Board of Commissioners – N/A

In accordance with the CAMA Land Use Plan when deliberating all re-zoning request the Planning Board and Board of Commissioners should ask the following questions:

1. Does Camden County need more land in the zone class requested? Y/N
2. Is there other property in the county that might be more appropriate for this use? Y/N
3. Is the request in accordance with the Camden County Land Use Plan? Y/N
4. Will the request have a serious impact on traffic circulation, parking space, sewer and water services, and other utilities? Y/N
5. Will the request have an impact on other county services, including police protection, fire protection, or the school system? Y/N
6. Is there a good possibility that the request, as proposed, will result in lessening the enjoyment or use of adjacent properties? Y/N
7. Will the request, as proposed, cause serious noise, odors, light, activity, or unusual disturbances? Y/N
8. Does the request raise serious legal questions such as spot zoning, hardship, violation of precedents, or need for this type of use? Y/N
9. Does the request adversely impact any CAMA Areas of Environmental Concern (AEC)? Y/N

Staff recommends approval of rezoning to Mixed Village Residential (R1) zoning as it is consistent with the CAMA Land Use Plan as Future Land Use Map has area designated at Low density residential one acre lots and Policy 10 states the county supports quality development from low-end affordable residences to high-end (luxury) residences. Existing and former uses of the property allows for additional low-end affordable uses (attachment D reflects the need for additional areas of R1 zoning).

Dave Parks described this rezoning request and read through the findings of fact. Mr. Parks indicated that the applicant was here to answer any questions the board may have of him.

Mr. Parks added the following information:

- Conforms to Future Land Use Plan & CAMA Plan & associated maps
- Uses are the same in the Table of Permissible Uses (R3-1 vs. R-1)
- There are already singlewides on part of his property, they are currently outside the 6 month usage requirement
- There is not a lot of R-1 in the county, there is a need for this type of zoning

Staff is recommending approval based on the following answers to the questions in the findings of fact:

1. Does Camden County need more land in the zone class requested? Yes. There is a need in the county for more affordable housing.
2. Is there other property in the county that might be more appropriate for this use? Staff feels that the requested zoning classification is appropriate as there is an existing use at the location where the re-zoning is requested.
3. Is the request in accordance with the Camden County Land Use Plan? Yes. The plan states there should be affordable housing in the county.
4. Will the request have a serious impact on traffic circulation, parking space, sewer and water services, and other utilities? No.

5. Will the request have an impact on other county services, including police protection, fire protection, or the school system? No.
6. Is there a good possibility that the request, as proposed, will result in lessening the enjoyment or use of adjacent properties? No.
7. Will the request, as proposed, cause serious noise, odors, light, activity, or unusual disturbances? No.
8. Does the request raise serious legal questions such as spot zoning, hardship, violation of precedents, or need for this type of use? No. The use was already there, albeit more than 6 months removed from the time of these proceedings. Staff feels it would not raise any of these types of questions.
9. Does the request adversely impact any CAMA Areas of Environmental Concern (AEC)? No. The properties are in a flood zone, but they do comply with the CAMA plan.

Chairman Rodney Needham asked for clarification as to which lots shown on the maps were included in the request to rezone. Applicant, John W. Spence, answered saying that lots 2 through 5 (4 lots total) were included. Lot 1 is not included as it has been sold and construction is currently underway placing a house on that lot. The existing singlewides on the property were legal non-conforming uses up until the use period (vacant 6 months) had expired.

Dave Parks explained that, under current code, once the use period expired that the use of the property would be subject to current zoning which prohibits the use of singlewide trailers in the R-3-1 zoning designation. Mr. Parks added that these lots are small. Board member David Bundy commented that the small lots are more suited to R-1 in his opinion.

At this time, Chairman Rodney Needham asked if there were any further questions or comments from the board, hearing none he entertained a motion.

Motion Made: *"Approve Rezoning as recommended by staff, as it would bring the zoning on the properties consistent with the use that already exists at that location, and adopt the following consistency statement - 'It is consistent with the CAMA Land Use Plan as Future Land Use Map has area designated as Low density residential one acre lots and Policy 10 states the county supports quality development from low-end affordable residences to high-end (luxury) residences.' "*

Motion made by: Fletcher Harris.

Motion Seconded by: David Bundy.

The motion was approved with Chairman Rodney Needham, Vice Chairman Calvin Leary, Members Fletcher Harris, Michael Etheridge, David Bundy, and Patricia Delano voting aye, none voting no, Ray Albertson absent, and none not voting.

Information from Board and Staff

- Dan Porter noted that the questions with regard to rezoning(s) will be in future board packets for the boards consideration.
- Findings of Facts document will also be reorganized so as to provide staff findings regarding those same questions.

Consider Date of Next Meeting - September 18, 2013

Dan Porter suggested to the Board to meet a week early so that any actions taken in September with regard to North River Crossing would go before the Board of Commissioners sooner rather than later. The Board unanimously decided to hold the September meeting on September 11, 2013. [Note: At the writing of these minutes, that meeting date has been pushed back to the original date of September 18, 2013].

Adjournment - 7:58 PM

Motion to adjourn by: David Bundy
Seconded by: Fletcher Harris

The motion was approved with Chairman Rodney Needham, Vice Chairman Calvin Leary, Members Fletcher Harris, Michael Etheridge, David Bundy, and Patricia Delano voting aye, none voting no, Ray Albertson absent, and none not voting.

Date: _____

Approved: _____
Chairman Rodney Needham

Attested: _____
Amy Barnett, Planning Clerk